

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

Federal-State Joint Board on Universal Service	)	
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	)	
American Cellular Corporation Petition for Agreement with Redefinition of the Service Areas of Certain Rural Incumbent Local Exchange Carriers in the State of Minnesota Pursuant to 47 C.F.R. § 54.207(c)	)	CC Docket No. 96-45
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**AMERICAN CELLULAR CORPORATION  
PETITION FOR AGREEMENT WITH REDEFINITION OF THE SERVICE AREAS  
OF CERTAIN RURAL INCUMBENT LOCAL EXCHANGE CARRIERS  
IN THE STATE OF MINNESOTA**

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## SUMMARY

American Cellular Corporation (“ACC”) respectfully requests the Commission’s concurrence with the Minnesota Public Utilities Commission’s (“Minnesota PUC”) decision to redefine the service area requirement in certain study areas in connection with its grant of eligible telecommunications carrier (“ETC”) status to ACC.

ACC filed a Verified Petition for designation as a competitive federal ETC with the Minnesota PUC on July 1, 2005.<sup>1</sup> Among the areas in which ACC sought ETC designation were certain specified wire centers in the study areas of two rural telephone companies – Citizens Telephone Company of Minnesota d/b/a Frontier Communications of Minnesota (SAC 361123) (“Citizens”) and Melrose Telephone Company (SAC 361430) (“Melrose”).<sup>2</sup>

On February 3, 2006 the Minnesota PUC issued an Order designating ACC as an ETC, including the requested Citizens and Melrose wire centers.<sup>3</sup> The *Designation Order* did not explicitly address redefinition with regard to the Citizens and Melrose study areas because the

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<sup>1</sup> *American Cellular Corporation Petition for Designation as an Eligible Telecommunications Carrier and Redefinition of Rural Telephone Company Service Area Requirement*, MPUC Docket No. PT-6458/M-05-1122, *Verified Petition for Designation as an Eligible Telecommunications Carrier and Redefinition of Rural Telephone Company Service Area Requirement for Certain Service Areas* (July 1, 2005) (“ACC Minnesota Petition”) (attached hereto as **Exhibit A**).

<sup>2</sup> *ACC Minnesota Petition*, ¶ 22, n. 23, Attachment 1.

<sup>3</sup> *American Cellular Corporation’s Petition for Designation as an Eligible Telecommunications Carrier and Redefinition of Rural Telephone Company Service Area Requirement*, Docket No. PT-6458/M-05-1122, *Order Granting Eligible Telecommunications Carrier Designation and Redefining Service Area Requirement* (rel. Feb. 3, 2006) (“*Designation Order*”) (attached hereto as **Exhibit B**).

Minnesota PUC had already entirely redefined these study areas to the wire center level in a previous docket.<sup>4</sup>

ACC timely submitted a copy of the *Designation Order* and the required line count data to the Universal Service Administrative Company (“USAC”) so that it could receive federal support pursuant to its ETC designation from the Minnesota PUC. However, USAC did not disburse support to ACC for the designated Citizens and Melrose wire centers. The Minnesota PUC thereafter issued a *Clarifying Order* affirming that the entire Citizens and Melrose study areas had previously been redefined to the wire center level, and affirming that ACC was designated as an ETC in the Citizens and Melrose wire centers.<sup>5</sup>

However, USAC continued to maintain that further redefinition of the Citizens and Melrose study areas was necessary. ACC then determined that the most practicable way for it to receive federal support for the Citizens and Melrose wire centers in which it had been designated was for the Minnesota PUC to issue an order explicitly redefining the service area requirement for the entire Citizens and Melrose study areas to the wire center level and reaffirming ACC’s designation as an ETC. ACC filed its Verified Petition for Redefinition of Service Area

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<sup>4</sup> See *Petition of Midwest Wireless Communications L.L.C. for Designation as an Eligible Telecommunications Carrier Under 47 U.S.C. § 214(e)(2)*, Docket No. PT-6153/AM-02-686, *Order Granting Conditional Approval and Requiring Further Filings* at 11-14 (Minn. PUC March 19, 2003) (“*Midwest Wireless Order*”).

<sup>5</sup> *American Cellular Corporation’s Petition for Designation as an Eligible Telecommunications Carrier and Redefinition of Rural Telephone Company Service Area Requirement*, Docket No. PT-6458/M-05-1122, *Order Clarifying Prior Orders* at 3-5 (Minn. PUC June 14, 2006) (“*Clarifying Order*”) (attached hereto as **Exhibit C**).



Requirement for the Citizens and Melrose Study Areas with the Minnesota PUC on October 10, 2006.<sup>6</sup>

On December 18, 2006, the Minnesota PUC issued an Order granting ACC's redefinition petition and explicitly redefined the service area requirement for the entire Citizens and Melrose study areas to the wire center level and reaffirmed ACC's designation as an ETC as to the Citizens and Melrose wire centers.<sup>7</sup>

As demonstrated below, the Minnesota PUC's proposed service area redefinition for the Citizens and Melrose study areas is consistent with federal law and the Commission's regulations and decisions. Moreover, redefinition is necessary to further the universal service goals of the Telecommunications Act of 1996 (the "Act"). Accordingly, ACC respectfully requests that the Commission approve the Minnesota PUC's service area redefinition pursuant to 47 C.F.R. § 54.207(c).

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<sup>6</sup> *American Cellular Corporation Petition for Designation as an Eligible Telecommunications Carrier and Redefinition of Rural Telephone Company Service Area Requirement*, MPUC Docket No. PT-6458/M-05-1122, *Verified Petition for Redefinition of Service Area Requirement for the Citizens and Melrose Study Areas*, (Minn. PUC Oct. 10, 2006) ("ACC Redefinition Petition") (attached hereto as **Exhibit D**).

<sup>7</sup> *American Cellular Corporation Petition for Designation as an Eligible Telecommunications Carrier and Redefinition of Rural Telephone Company Service Area Requirement*, MPUC Docket No. PT-6458/M-05-1122, *Order Granting Petition to Redefine Service Area Requirements to the Wire Center Level* (Minn. PUC Dec. 18, 2006) ("ACC Minnesota Redefinition Order") (attached hereto as **Exhibit E**).

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OF CERTAIN RURAL INCUMBENT LOCAL EXCHANGE CARRIERS  
IN THE STATE OF MINNESOTA**

American Cellular Corporation (“ACC”) respectfully requests the Commission’s concurrence, pursuant to 47 U.S.C. § 214(e)(5) and 47 C.F.R. § 54.207(c), with the Minnesota Public Utilities Commission’s (“Minnesota PUC”) redefinition of the service area requirement in certain study areas in connection with its grant of eligible telecommunications carrier (“ETC”) status to ACC. As demonstrated in this Petition, the Minnesota PUC’s decision to redefine the Citizens Telephone Company of Minnesota d/b/a Frontier Communications of Minnesota (SAC 361123) (“Citizens”) and Melrose Telephone Company (SAC 361430) (“Melrose”) study areas to the wire center level is consistent with federal law and the Commission’s regulations and decisions. Accordingly, the public interest will be served by the Commission’s prompt concurrence.

**I. BACKGROUND**

A carrier designated as a competitive ETC pursuant to Section 214(e) of the Telecommunications Act of 1996 (the “Act”) is required to provide and advertise certain

specified services throughout the “service area” for which it has been designated.<sup>8</sup> The term “service area” means a geographic area established by a State commission (or the Commission under Section 214(e)(6) of the Act)) for the purpose of determining universal service obligations and support mechanisms.<sup>9</sup> In an area served by a rural telephone company, a competitive ETC’s service area is defined as the rural telephone company’s “study area,” unless and until the Commission and the State commission both agree to redefine the service area requirement to something other than the study area.<sup>10</sup>

The Commission has previously recognized that requiring a competitive carrier, especially a wireless provider, to conform its designated ETC service area to the study area of a rural telephone company may give the incumbent local exchange carrier (“ILEC”) an unfair competitive advantage.<sup>11</sup> The Commission has promulgated 47 C.F.R. § 54.207 to avoid such anti-competitive results. Pursuant to Section 54.207, a State commission may grant ETC designations for a service area that differs from the rural ILEC’s study area.<sup>12</sup> Such designations, however, require this Commission to concur with the State commission’s proposed redefinition.<sup>13</sup>

In granting such designations, the State commission and this Commission are required to consider the Joint Board’s recommendations and explain their rationale for adopting the

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<sup>8</sup> 47 U.S.C. § 214(e)(1)

<sup>9</sup> 47 U.S.C. § 214(e)(5).

<sup>10</sup> 47 U.S.C. § 214(e)(5); 47 C.F.R. § 54.207(b); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8871-72 ¶ 172 n. 434 (1997) (“*Universal Service First Report and Order*”), *subsequent history omitted*.

<sup>11</sup> *Universal Service First Report and Order*, 12 FCC Rcd at 8879-80 ¶ 185.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

alternative service area.<sup>14</sup> In recommending that the study area be retained as the presumptive service area for a rural ILEC, the Joint Board has identified the following three factors which must be considered when weighing a request to redefine the service area requirement to something other than the study area: (1) minimizing cream skimming; (2) recognizing that the 1996 Act places rural telephone companies on a different competitive footing from other LECs; and (3) recognizing the administrative burden of requiring rural telephone companies to calculate costs at something other than a study area level.<sup>15</sup> As explained below, the Minnesota PUC has fully considered each of the three Joint Board factors and has properly concluded that granting the proposed redefinition is consistent with each of these factors.

ACC filed a Verified Petition for designation as a competitive federal ETC with the Minnesota PUC on July 1, 2005.<sup>16</sup> In the *ACC Minnesota Petition*, ACC relied on the fact that the Minnesota PUC had previously redefined the service area requirement for the entire Citizens and Melrose study areas in the *Midwest Wireless Order* to the wire center level.<sup>17</sup> No rural telephone company or other party disputed that the entire Citizens and Melrose study areas had already been redefined to the wire center level as a result of the Midwest Wireless case.

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<sup>14</sup> 47 U.S.C. § 214(e)(5); 47 C.F.R. § 54.207(b); *Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier In the Commonwealth of Virginia*, CC Docket No. 96-45, *Memorandum Opinion and Order*, 19 FCC Rcd 1563, 1567 ¶ 9 (2004) (“*Virginia Cellular*”).

<sup>15</sup> *Virginia Cellular*, 19 FCC Rcd at 1582 ¶ 41 (citing *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Recommended Decision*, 12 FCC Rcd 87, 179-80, ¶¶ 172-74 (1996) (“*Joint Board Recommendations*”)).

<sup>16</sup> *ACC Minnesota Petition* (attached hereto as **Exhibit A**).

<sup>17</sup> *ACC Minnesota Petition*, ¶ 22 and Attachment 1.

On February 3, 2006 the Minnesota PUC issued an Order designating ACC as an ETC, including the requested Citizens and Melrose wire centers.<sup>18</sup> The Minnesota PUC did not specifically address redefinition of the Citizens and Melrose study areas because it had previously redefined each study area to the wire center level. In order to receive federal support pursuant to its ETC designation, ACC timely submitted a copy of the *Designation Order* and the required line count data to the Universal Service Administrative Company (“USAC”). However, USAC did not undertake to disburse support to ACC for the designated Citizens and Melrose wire centers. The Minnesota PUC thereafter issued an Order clarifying that the entire Citizens and Melrose study areas had previously been redefined to the wire center level, and affirming that ACC was designated as an ETC in the Citizens and Melrose wire centers where it had requested and received designation.<sup>19</sup>

Notwithstanding the *Clarifying Order*, USAC continued to maintain that further redefinition of the Citizens and Melrose study areas was required. Accordingly, USAC has not disbursed federal support to ACC for the Citizens and Melrose wire centers in which the Minnesota PUC has designated ACC as an ETC. To remedy USAC’s concerns and to receive federal support for the Citizens and Melrose wire centers in which it has been designated, ACC determined to petition the Minnesota PUC for an order explicitly redefining the service area requirement for the entire Citizens and Melrose study areas to the wire center level and reaffirming ACC’s designation as an ETC.

Accordingly, ACC filed its Verified Petition for Redefinition of Service Area Requirement for the Citizens and Melrose Study Areas with the Minnesota PUC on October 10,

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<sup>18</sup> *Designation Order* (attached hereto as **Exhibit B**).

<sup>19</sup> *Clarifying Order* at 3-5 (attached hereto as **Exhibit C**).

2006.<sup>20</sup> The Minnesota PUC Staff recommended granting ACC's petition and the requested redefinition in briefing papers issued for the Minnesota PUC's November 30, 2006 meeting.<sup>21</sup>

On December 18, 2006, the Minnesota PUC issued an Order explicitly redefining the service area requirement for the entire Citizens and Melrose study areas to the wire center level and reaffirming ACC's designation as an ETC as to the Citizens and Melrose wire centers.<sup>22</sup> The Minnesota PUC's redefinition decision was supported by the analysis and recommendations of Minnesota PUC Staff based on its review of the *ACC Redefinition Petition*.<sup>23</sup> Specifically, Minnesota PUC Staff's stated:

Staff believes that the [Minnesota PUC] has stated in numerous earlier cases its policy position favoring redefinition of a rural telephone company's entire service area into its component wire centers or exchanges. In ACC's case, the record shows that the redefinition does not create a risk of either intentional or unintentional cream skimming, will not affect Citizens or Melrose's status as rural telephone companies, and will not create any administrative burdens.

Following the [Minnesota PUC's] policy position as stated in the Clarifying Order and with the objective of removing USAC concerns that hinder ACC's receipt of federal support for the Citizens and Melrose wire centers where ACC has been

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<sup>20</sup> *ACC Redefinition Petition* (attached hereto as **Exhibit D**).

<sup>21</sup> Minnesota Public Utilities Commission, *Staff Briefing Papers*, Docket No. PT-6458/M-05-1122 at 3 (Nov. 30, 2006) ("*Minnesota PUC Staff Briefing Papers*") (attached hereto as **Exhibit F**).

<sup>22</sup> *American Cellular Corporation Petition for Designation as an Eligible Telecommunications Carrier and Redefinition of Rural Telephone Company Service Area Requirement*, MPUC Docket No. PT-6458/M-05-1122, *Order Granting Petition to Redefine Service Area Requirements to the Wire Center Level* (Minn. PUC Dec. 18, 2006) ("*ACC Minnesota Redefinition Order*") (attached hereto as **Exhibit E**).

<sup>23</sup> *Minnesota PUC Staff Briefing Papers*.

designated as an ETC, Staff recommends that the [Minnesota PUC] grant ACC's petition.<sup>24</sup>

In the *ACC Minnesota Redefinition Order*, the Minnesota PUC reaffirmed that ACC was fully qualified to be designated as a competitive ETC.<sup>25</sup> To effectuate ACC's ETC designation in the Company's FCC-licensed portions of the Citizens and Melrose study areas, the Minnesota PUC explicitly redefined the service area requirement for the entire Citizens and Melrose study areas to the wire center level. The Minnesota PUC stated:

The Commission hereby redefines the service area requirement for the entire Citizens and Melrose study areas to the wire center level and reaffirms ACC's designation as an eligible telecommunications carrier (ETC) as to those wire centers listed on Exhibit B to the Company's October 10, 2006 petition. See Attachment 1.<sup>26</sup>

Consistent with Attachment 1 to the *ACC Minnesota Redefinition Order*, set forth below is a listing of the wire centers in which ACC was designated as a competitive ETC by the Minnesota PUC subject to the Commission's concurrence with the proposed service area redefinition:

Rural Telephone Company	Wire Center Name	CLLI Code
Citizens Tel. Co. of Minnesota d/b/a Frontier Comm. of Minnesota  (SAC 361123)	Alborn Askov Aurora Babbitt Big Falls Brookstone Bear River	ALBOMNXXB ASKVMNXXB AURRMNXXA BBTTMNXXB BGFSMNXXB BKTNMNXXB BRRVMNXXB

<sup>24</sup> *Minnesota PUC Staff Briefing Papers* at 3. Minnesota PUC Staff also noted “[i]n this petition and earlier petitions filed by ACC in its ETC designation request, no party disputed the Company's ETC designation in the affected areas included in the redefinitions of the service areas at the exchange or wire center level” and that the Minnesota Department of Commerce “has supported ACC's redefinition issues from the beginning of the case.” *Id.*

<sup>25</sup> *ACC Minnesota Redefinition Order* at 2.

<sup>26</sup> *ACC Minnesota Redefinition Order* at 3.

Rural Telephone Company	Wire Center Name	CLLI Code
	Brimson	BRSNMNXB
	Crane Lake	CNLKMNXB
	Cromwell	CRWLMNXC
	Denham	DNHMMNXD
	Ely	ELY MNXE
	Embarrass	EMBRMNXE
	Ericsburg	ERBGMNXE
	Floodwood	FLWDMNXF
	Finlayson	FNSNMNXF
	Greaney	GRNYMNXG
	Garrison	GRSNMNXG
	Gateway	GTWYMNXG
	Herman	HRMNMNXA
	Hoyt Lakes	HYLKMNXH
	International Falls	INFLMNXI
	Isabella Isle	ISBLMNXI
	Isle	ISLEMNXI
	Jacobson	JCBSMNXJ
	Kabetogama	KBTGMNXN
	Kimberly	KMBRMNXK
	Kettle River	KTRVMNXK
	Little Fork	LTFKMNXL
	Malmo	MALMMNXM
	McGregor	MCGRMNXM
	Meadowlands	MDLDMNXA
	McGrath	MGRTMNXM
	Milaca	MILCMNXM
	Nickerson	NCSNMNXN
	Onamia	ONAMMNXO
	Palo	PALOMNXP
	Pease	PEASMNXP
	Palisade	PLSDMNXP
	Ranier	RANRMNXR
	Sturgeon Lake	SGLKMNXS
	Tower	TOWRMNXA
	Two Harbors	TWHRMNXA
	Warba	WARBMNXA
	Wahkon	WHKNMNXW
	Wheaton	WHTNMNXW
	Wright	WRGHMNXW



Rural Telephone Company	Wire Center Name	CLLI Code
Melrose Telephone Company (SAC 361430)	Grey Eagle	GRYEMNXG

This Commission has held that a State commission’s “first-hand knowledge of the rural areas in question uniquely qualifies it to examine the redefinition proposal and determine whether it should be approved.”<sup>27</sup> The Minnesota PUC’s first-hand knowledge of the circumstances of Minnesota rural ILECs and other carriers should thus be given significant weight as the Commission addresses the service area redefinition request made herein.

## II. **DISCUSSION**

### A. **Redefinition of the Service Area Requirement is Consistent with Federal Universal Service Policy**

Congress has expressly declared its intent in passing the 1996 amendments to the Act:

To promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies.<sup>28</sup>

Consistent with these goals, the Act specifically contemplates the designation of multiple ETCs, including in areas served by rural ILECs, as being consistent with the public interest. 47 U.S.C. § 214(e)(2). The Commission has also long recognized that requiring a competitive carrier, especially a wireless provider, to conform its designated service area to the study area of a rural

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<sup>27</sup> *Federal-State Joint Board on Universal Service, Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, *Memorandum Opinion and Order*, 19 FCC Rcd. 6422, 6423, ¶ 2 (2004) (“*Highland Cellular*”).

<sup>28</sup> Pub. L. No. 104-104, 110 Stat. 56 (1996) (emphasis added).

ILEC may act to bar the new telecommunications provider from entering the market, and thus give the ILEC an unfair competitive advantage.<sup>29</sup>

This is particularly true in the instant petition because portions of the Citizens and Melrose study areas lie outside of ACC's FCC-licensed CMRS boundaries in Minnesota. The proposed redefinition is consistent with federal universal service policy as it will promote local competition and enable ACC to bring new services and technologies to customers in rural and high-cost portions of Minnesota who currently have little or no meaningful choice of universal service providers.<sup>30</sup>

Federal universal service policy also favors redefinition in instances where a rural ILEC's study area is large or non-contiguous. The Commission has expressly urged State commissions to explore redefinition for purposes of ETC designation where a competitive ETC or wireless carrier might not be able to provide facilities-based service throughout a rural ILEC's entire study area.<sup>31</sup> Accordingly, the Commission has cautioned that requiring a new entrant to serve a large or non-contiguous service area as a prerequisite to ETC designation would impose a "serious barrier to entry, particularly for wireless carriers" and would be "particularly harmful to competition in rural areas, where wireless carriers could potentially offer service at much lower costs than traditional wireline service."<sup>32</sup>

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<sup>29</sup> *Universal Service First Report and Order*, 12 FCC Rcd at 8879-80 ¶ 185.

<sup>30</sup> *Virginia Cellular*, ¶¶ 40-45; *Highland Cellular*, ¶¶ 37-42; see also *Washington Utilities & Transportation Commission, et al., Petition for Agreement With Designation of Rural Company Eligible Telecommunications Carrier Service Areas and for Approval of the Use of Disaggregation of Study Areas of the Purpose of Distributing Portable Federal Universal Service Support*, CC Docket No. 96-45, *Memorandum Opinion and Order*, 15 FCC Rcd 9921, ¶ 8 (Com. Car. Bur. 1999).

<sup>31</sup> *Universal Service First Report and Order*, 12 FCC Rcd at 8882-83 ¶ 190.

<sup>32</sup> *Id.*

The proposed redefinition in this proceeding will promote competition in the Citizens and Melrose study areas by offering customers within ACC's FCC-licensed service areas a choice in universal service providers. This effort at facilitating competition is consistent with the goals of the Act and this Commission.<sup>33</sup> Accordingly, the Commission should concur with the Minnesota PUC's redefinition determination in this proceeding without delay.

## **B. Redefinition In This Case Satisfies The Three Joint Board Factors**

As noted above, the Commission has adopted the three Joint Board factors which should be considered when evaluating a request for service area redefinition.<sup>34</sup> The Commission recently reiterated its adherence to these three factors in the *March 2005 Order*.<sup>35</sup> The Minnesota PUC has properly considered each of these factors and correctly determined that redefinition of the service area requirement to the wire center level in this instance is consistent with these factors.<sup>36</sup>

### **1. Redefinition Will Not Result in Cream Skimming**

The first factor to consider is whether an ETC applicant is selectively seeking designation in only the low-cost, high-support portion of a rural ILEC's study area, a process known as "cream skimming." The Commission has noted that if a competitor were required to serve a rural ILEC's entire study area, the risk of "cream skimming" would be eliminated because a

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<sup>33</sup> See *Virginia Cellular*, 19 FCC Rcd 1581 ¶ 38.

<sup>34</sup> See, e.g., *Highland Cellular*, ¶¶ 38-41 (applying Joint Board's recommended factors).

<sup>35</sup> *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Report and Order*, 20 FCC Rcd. 6371, 6403, ¶¶ 73-75 (2005) ("*March 2005 Order*").

<sup>36</sup> *ACC Minnesota Redefinition Order* at 2.

competitive ETC would be prevented from selectively targeting service only to the lowest cost exchanges of the rural ILEC's study area.<sup>37</sup> As the Joint Board has explained:

We note that some commenters argue that Congress presumptively retained study areas as the service area for rural telephone companies in order to minimize "cream skimming" by potential competitors. Potential "cream skimming" is minimized because competitors, as a condition of eligibility, must provide services throughout the rural telephone company's study area. Competitors would thus not be eligible for universal service support if they sought to serve only the lowest cost portions of a rural telephone company's study area.<sup>38</sup>

In this case, the Minnesota PUC's determination to redefine the service area requirement expressly took into account any cream skimming concerns. Specifically, Minnesota PUC Staff evaluated ACC's redefinition request and found that "the record shows that the redefinition does not create a risk of either intentional or unintentional creamskimming."<sup>39</sup> The Minnesota PUC also reviewed the record evidence before it and concluded that ACC's request for redefinition did not create a risk of intentional cream skimming.<sup>40</sup>

The Minnesota PUC also concluded that no effects of unintentional cream skimming would result from the proposed redefinition due to the disaggregation plans filed by Citizens and Melrose.<sup>41</sup> This Commission has virtually eliminated the risk of unintentional cream skimming by implementing the disaggregation mechanisms set forth in 47 C.F.R. § 54.315. Accordingly, rural ILECs have the option to disaggregate federal universal service support to higher cost portions of their study areas. Here, any risk of creamskimming has been substantially eliminated

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<sup>37</sup> *Universal Service Order*, 12 FCC Rcd at 8881-82.

<sup>38</sup> *Joint Board Recommendations*, 12 FCC Rcd at 179-80 ¶ 172.

<sup>39</sup> *Minnesota PUC Staff Briefing Papers* at 3.

<sup>40</sup> *ACC Minnesota Redefinition Order* at 2.

<sup>41</sup> *Id.*

as both Citizens and Melrose have already disaggregated support.<sup>42</sup> This ensures that ACC will receive less per-line support in lower-cost areas and will only receive higher per-line support in areas that are truly higher in cost.

Moreover, ACC has conducted and presented to the Minnesota PUC a population density analysis, as endorsed by this Commission, to assess any risk of any unintended effects of cream skimming.<sup>43</sup> ACC's population density analysis demonstrates that no inadvertent effects of cream skimming will result from the requested redefinition as ACC has been designated in the less densely populated wire centers of the Citizens and Melrose study areas.<sup>44</sup>

Upon reviewing ACC's analysis, the Minnesota PUC properly concluded the proposed redefinition will not result in any cream skimming.<sup>45</sup> The Commission should readily reach the same conclusion.

## **2. Redefinition Does Not Affect the Unique Regulatory Status of the Rural ILECs**

The second factor to consider is the impact on the rural ILEC whose service area is to be redefined. The Minnesota PUC's determination to redefine the service area requirement in this proceeding will not affect the unique regulatory status of either Citizens or Melrose. As the Commission concluded in *Virginia Cellular*:

[O]ur decision to redefine the service areas of the affected rural telephone companies includes special consideration for the affected rural carriers. Nothing

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<sup>42</sup> See <http://www.universalservice.org/hc/tools/disaggregation/checklist/minnesota.xls>.

<sup>43</sup> *ACC Redefinition Petition* at 9.

<sup>44</sup> The population density analysis shows a population of 8.74 persons per square mile in the Citizens and 34.03 persons per square mile in the Melrose areas in which ACC was designated as compared to a population of 35.25 persons per square mile in the Citizens and 41.81 persons per square mile in the Melrose areas in which ACC did not seek ETC designation. *ACC Redefinition Petition*, Exhibit C.

<sup>45</sup> *ACC Minnesota Redefinition Order* at 2.

in the record convinces us that the proposed redefinition will harm the incumbent rural carriers. The high-cost universal service mechanisms support all lines served by ETCs in rural areas. Under the Commission's rules, receipt of high-cost support by Virginia Cellular will not affect the total amount of high-cost support that the incumbent rural telephone company receives. Therefore, to the extent that Virginia Cellular or any future competitive ETC captures incumbent rural telephone company lines, provides new lines to currently unserved customers, or provides second lines to existing wireline subscribers, it will have no impact on the amount of universal service support available to the incumbent rural telephone companies for those lines they continue to serve. Similarly, redefining the service areas of the affected rural telephone companies will not change the amount of universal service support that is available to these incumbents.<sup>46</sup>

Nothing in the service area redefinition process affects Citizens' or Melrose's statutory exemptions from interconnection, unbundling and resale requirements under Section 251(c) of the Act. Further, redefining Citizens' and Melrose's service areas as requested will not compromise or impair either company's unique regulatory treatment under Section 251(f) of the Act. Even after the service area requirement is redefined for purposes of ACC's designation, Citizens and Melrose will still retain the statutory exemptions from interconnection, unbundling and resale requirements under Section 251(c).

Additionally, the redefinition process does not affect the way in which Citizens or Melrose calculates its embedded costs or the amount of per-line support it receives. "Under the Commission's rules, the receipt of high-cost support by [a competitive ETC] will not affect the total amount of high-cost support that the incumbent rural telephone company receives."<sup>47</sup> Rather, the redefinition process only modifies the service area requirement for purposes of designating a competitive ETC. Thus, Citizens and Melrose will retain their unique regulatory status as rural ILECs under the Act consistent with the Joint Board's recommendations.

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<sup>46</sup> *Virginia Cellular*, 19 FCC Rcd at 1583 ¶ 43 (internal footnotes omitted).

<sup>47</sup> *Virginia Cellular*, 19 FCC Rcd at 1583 ¶ 43; *see also Highland Cellular*, 19 FCC Rcd at 6440 ¶ 40.

Consistent with this analysis, the Minnesota PUC correctly determined that the proposed redefinition will have no effect upon Citizens' or Melrose's regulatory status.<sup>48</sup> Accordingly, the Commission's concurrence with the Minnesota PUC's proposed redefinition will have no effect on the unique regulatory status enjoyed by either Citizens or Melrose.

### **3. Redefinition Does Not Create Any Administrative Burdens**

The third and final factor to consider is whether any administrative burdens may result from the redefinition of the service area requirement. A rural ILEC's universal service support payments are currently based on the company's embedded costs determined at the study area level.<sup>49</sup> As the Commission concluded in *Virginia Cellular*:

[R]edefining the rural telephone company service areas as proposed will not require the rural telephone companies to determine their costs on a basis other than the study area level. Rather, the redefinition merely enables competitive ETCs to serve areas that are smaller than the entire ILEC study area. Our decision to redefine the service areas does not modify the existing rules applicable to rural telephone companies for calculating costs on a study area basis, nor, as a practical matter, the manner in which they will comply with these rules. Therefore, we find that the concern of the Joint Board that redefining rural service areas would impose additional administrative burdens on affected rural telephone companies is not at issue here.<sup>50</sup>

For the same reasons, redefinition of the service area requirement in this case will not impose any administrative burdens on Citizens or Melrose. The Minnesota PUC agreed, concluding that redefinition of the Citizens and Melrose study areas will not create any administrative burdens for the rural telephone companies.<sup>51</sup> Accordingly, the Commission's concurrence with the

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<sup>48</sup> *ACC Minnesota Redefinition Order* at 2.

<sup>49</sup> *Universal Service First Report and Order*, 12 FCC Rcd at 8881-82 ¶ 189.

<sup>50</sup> *Virginia Cellular*, 19 FCC Rcd 1583 ¶ 44.

<sup>51</sup> *ACC Minnesota Redefinition Order* at 2.

Minnesota PUC's proposed redefinition will not create any additional administrative burdens and should, therefore, be approved without delay.

### **III. CONCLUSION**

For the reasons stated herein, ACC respectfully requests that the Commission concur in the Minnesota PUC's proposed redefinition of the Citizens and Melrose service areas from the study area level to the individual wire center level.

Respectfully submitted,

**AMERICAN CELLULAR CORPORATION**

Dated: December 21, 2006

By: \_\_\_\_\_/s/\_\_\_\_\_

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*ATTORNEYS FOR AMERICAN CELLULAR  
CORPORATION*



**Exhibit A**

**American Cellular Corporation's July 1, 2005 Verified Petition for  
Designation as an Eligible Telecommunications Carrier and Redefinition of Rural  
Telephone Company Service Area Requirement for Certain Service Areas**

## BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye  
 Kenneth Nickolai  
 Marshall Johnson  
 Phyllis A. Reha  
 Thomas Pugh

Chair  
 Commissioner  
 Commissioner  
 Commissioner  
 Commissioner

In the Matter of AMERICAN CELLULAR ) Docket No. \_\_\_\_\_  
 CORPORATION Petition for Designation as an )  
 Eligible Telecommunications Carrier and )  
 Redefinition of Rural Telephone Company Service )  
 Area Requirement )

**VERIFIED PETITION FOR DESIGNATION AS AN  
 ELIGIBLE TELECOMMUNICATIONS CARRIER AND  
 REDEFINITION OF RURAL TELEPHONE COMPANY SERVICE AREA  
 REQUIREMENT FOR CERTAIN SERVICE AREAS**

1. American Cellular Corporation ("ACC" or the "Company") submits this Petition for designation as an eligible telecommunications carrier ("ETC") and for redefinition of the service area requirement, pursuant to 47 U.S.C. § 214(e) of the Communications Act of 1996 (the "Act"), 47 U.S.C. § 151 *et seq.*, Part 54 of the Federal Communications Commission's ("FCC") rules and regulations governing universal service, and Minn. Rule 7811.1400.

2. ACC is licensed and provides wireless telecommunications services throughout certain rural and non-rural telephone company areas in Minnesota, including the requested ETC service areas ("Service Areas") described herein. Each of these Service Areas is more fully identified on Attachment 1 and Attachment 2. Specifically, Attachment 1 sets forth a listing of non-rural telephone company wire centers, rural telephone company study areas that ACC serves in their entirety, and rural telephone company wire centers that ACC serves that have already been redefined to the wire center level. Set forth on Attachment 2 is a listing of rural telephone company wire centers served by ACC which are subject to the request for redefinition. ACC seeks immediate designation as a competitive federal ETC for purposes of qualifying to receive

federal universal service support in the non-rural telephone company wire centers, rural telephone company study areas, and rural telephone company wire centers set forth on Attachment 1. ACC also seeks conditional designation as a competitive federal ETC in the individual rural telephone company wire centers set forth on Attachment 2 pending approval of the Company's request for redefinition of the service areas requirement by the Minnesota Public Utilities Commission ("Commission") and the FCC.

3. As demonstrated below, and as certified in Attachment 3 to this Petition, ACC meets all of the statutory and regulatory prerequisites for designation as an ETC throughout its requested ETC Service Areas. The Commission should, therefore, promptly grant ACC's Petition.

#### I. BACKGROUND

4. Pursuant to Minn. Rule 7811.1400, subp. 4(A), ACC states its name, address, telephone number, and designated contact person as follows:

American Cellular Corporation  
Attention: Thomas A. Coates, Vice President, Corporate Development  
14201 Wireless Way  
Oklahoma City, Oklahoma 73134-2512  
Telephone: (405) 528-8500  
Facsimile: (405) 320-1112

5. ACC is licensed by the FCC to provide commercial mobile radio service ("CMRS"). Nationally, ACC provides CMRS in portions of Kentucky, Michigan, Minnesota, New York, Ohio, Oklahoma, Pennsylvania, West Virginia, and Wisconsin. As of March 2005, ACC provided service to more than 685,000 subscribers. In August 2003, ACC became a wholly-owned, indirect subsidiary of Dobson Communications Corporation, and the consolidated company now serves 1.6 million wireless subscribers in 16 States, making it the largest independent rural wireless provider in the United States. ACC has also been designated

by the Wisconsin Public Service Commission to serve as a competitive ETC throughout portions of that State.

6. In Minnesota, ACC is currently licensed and provides CMRS in the following areas: MN RSA 2, MN RSA 3, MN RSA 4, MN RSA 5, MN RSA 6, and Duluth MSA. These service areas include the following Minnesota Counties or portions thereof: Aitkin, Becker, Beltrami, Big Stone, Carlton, Cass, Cook, Crow Wing, Douglas, Grant, Hubbard, Isanti, Itasca, Kanabec, Koochiching, Lake, Mille Lacs, Morrison, Otter Tail, Pine, Pope, St. Louis, Stevens, Swift, Todd, Traverse, Wadena, Wilkin.

7. Specific information regarding ACC's signal coverage within the areas for which ETC designation is requested in this docket is provided in Attachment 4, which contains the Company's coverage maps for each of the requested ETC Service Areas.

8. ACC offers digital voice and digital feature services to its customers through its existing Time Division Multiple Access ("TDMA") digital network. In addition, ACC recently upgraded to a Global System for Mobile Communications ("GSM") and General Packet Radio Service ("GPRS") digital network, which enables ACC to offer enhanced data services to its customers.

9. ACC offers its customers high-quality wireless telecommunications services and is committed to providing exceptional customer service as demonstrated by its adoption of the CTIA Consumer Code for Wireless Service, which sets forth certain principles, disclosures, and practices for the provision of wireless services.<sup>1</sup>

## II. JURISDICTION

10. As a CMRS provider, ACC's provision of wireless telecommunications services is licensed and regulated by the FCC. However, under 47 U.S.C. § 214(e)(2) and Minn. Rule

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<sup>1</sup> See [www.ctia.org/wireless\\_consumers/consumer\\_code/index.cfm](http://www.ctia.org/wireless_consumers/consumer_code/index.cfm).

7811.1400, subp. 2, the Commission has the jurisdiction and authority to designate ACC as an ETC in its requested ETC Service Areas. Further, the Commission has the jurisdiction and authority to grant ACC's request for redefinition of the service area requirement.<sup>2</sup>

11. As a provider of CMRS, ACC is not regulated by the Commission. Although the Commission's rules refer only to designation of CLECs, *i.e.*, regulated carriers, the Commission has designated other CMRS providers as ETCs.<sup>3</sup> Accordingly, ACC requests a permanent variance of a portion of Minn. Rule 7811.1400, subp. 2 restricting an ETC designation to a "competitive local exchange carrier."

### **III. CRITERIA FOR ETC DESIGNATION**

12. To qualify for ETC designation under 47 U.S.C. § 214(e)(1), 47 C.F.R. § 54.201, and Minn. Rules 7811.0100, subp. 15, a carrier must meet the following requirements:

- (a) the Company is a "common carrier" under federal law;
- (b) the Company offers or will be able to offer the supported services using its own facilities, or a combination of its own facilities and resale of another carrier's services;
- (c) the Company will advertise the availability and charges for the supported services using media of general distribution; and
- (d) the Company will provide the supported services throughout its designated ETC service areas upon reasonable request.

13. Section 54.101(a)(1)-(a)(9) of the FCC's Rules require that an ETC provide the following services or functionalities as the supported services:

- (a) voice-grade access to the public switched telephone network;
- (b) local usage;

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<sup>2</sup> 47 U.S.C. § 214(e)(5); 47 C.F.R. § 54.207(b)-(c).

<sup>3</sup> See, e.g., *In the Matter of Midwest Wireless Communications, LLC, for Designation as an Eligible Telecommunications Carrier (ETC) Under 47 U.S.C. § 214(e)(2)*, Docket No. PT-6153/AM-02-686, *Order Granting Conditional Approval and Requiring Further Filings* (March 19, 2003) ("Midwest Wireless Order"); *RCC Order, In the Matter of Minnesota Cellular Corporation's Petition for Designation as an Eligible Telecommunications Carrier*, Docket No. P-5695/M-98-1285 (Oct. 27, 1999) ("Western Wireless ETC I Order"); *In the Matter of WWC Holding Co., Inc. d/b/a CellularOne for Designation as an Eligible Telecommunications Carrier and Redefinition of Rural Telephone Company Service Area Requirement*, Docket No. P-5695/M-04-226, *Order Approving Petition for ETC Designation* (Aug. 9, 2004) ("Western Wireless ETC II Order").

- (c) dual-tone multi-frequency ("DTMF") signaling or its functional equivalent;
- (d) single-party service or its functional equivalent;
- (e) access to emergency services;
- (f) access to operator services;
- (g) access to interexchange service;
- (h) access to directory assistance; and
- (i) toll limitation for qualifying low-income consumers.<sup>4</sup>

14. The Act and the FCC's Rules define "service area" as a geographic area established by the Commission for purposes of determining universal service obligations and support. In an area served by an incumbent non-rural telephone company, the Commission may designate a competitive ETC for a service area that is smaller than the contours of the incumbent carrier's study area.<sup>5</sup>

15. In an area served by a rural telephone company, "service area" is defined as the incumbent carrier's entire "study area," unless and until the Commission and FCC cooperatively redefine the service area requirement to something less than the study area. 47 U.S.C. § 214(e)(5), 47 C.F.R. § 54.207(b).

16. Consistent with the public interest, convenience, and necessity, a competitive ETC may be designated in any area served by a non-rural telephone company so long as the applicant meets the requirements of 47 U.S.C. § 214(e)(1). Before designating a competitive ETC in an area served by a rural telephone company, the Commission must also find that the designation satisfies the "public interest" requirement set forth in 47 U.S.C. § 214(e)(2).

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<sup>4</sup> 47 C.F.R. § 54.101(a)(1)-(a)(9).

<sup>5</sup> *In the Matter of Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, *Memorandum Opinion and Order*, FCC 03-338, ¶ 39 n.114 (rel. Jan. 22, 2004) ("Virginia Cellular Order"); *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Report and Order*, FCC 97-157, ¶¶ 184-185 (rel. May 8, 1997) ("Universal Service Order").

#### **IV. ACC SATISFIES EACH OF THE REQUIREMENTS FOR DESIGNATION AS A COMPETITIVE ETC**

17. A telecommunications carrier utilizing any technology, including wireless technology, is eligible to receive federal universal service support if the customer meets the requirements established under 47 U.S.C. § 214(e)(1). As demonstrated below, ACC satisfies each of these requirements. ACC operates as a common carrier, provides each of the nine supported services established by the FCC, and will offer and advertise the availability of, and charges for, such services throughout its designated Service Areas. Finally, ACC's designation as a competitive ETC will serve the public interest.

##### **A. ACC is a Common Carrier**

18. The first requirement for ETC designation is that the applicant is a common carrier.<sup>6</sup> A common carrier is defined by the Act as "any person engaged as a common carrier for hire, in interstate or foreign communications by wire or radio."<sup>7</sup> The FCC has determined that CMRS providers are common carriers under federal law.<sup>8</sup> Therefore, ACC meets the federal definition of common carrier for purposes of ETC designation.

##### **B. ACC Provides Each of the Nine Supported Services**

19. The second requirement for ETC designation is that the applicant be capable of and committed to providing each of the nine (9) supported services upon designation.<sup>9</sup>

20. ACC currently provides the supported services set forth in 47 C.F.R. § 54.101(a)(1)-(9) over its existing network infrastructure in Minnesota as follows:

- (a) Voice Grade Access: The FCC has determined that voice grade access to the public switched telephone network means the ability to make and receive calls

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<sup>6</sup> 47 U.S.C. § 214(e)(1).

<sup>7</sup> 47 U.S.C. § 153(10).

<sup>8</sup> See 47 C.F.R. § 20.9(a)(7).

<sup>9</sup> 47 U.S.C. § 214(e)(1)(A).

with a minimum bandwidth of 300 to 3500 Hertz.<sup>10</sup> Through its interconnection agreements with various ILECs, ACC's customers are currently able to make and receive calls on the public switched telephone network within the FCC's specified frequency range.

- (b) Local Usage: "Local usage" means an amount of minutes of use of exchange service, as prescribed by the FCC, provided free of charge to end users.<sup>11</sup> The FCC has determined that a wireless carrier's inclusion of local usage in a variety of service offerings satisfies the obligation to provide local usage.<sup>12</sup> ACC will include local usage in all of its service offerings.
- (c) Dual Tone Multi-Frequency Signaling or Its Functional Equivalent: "Dual Tone Multi-Frequency" ("DTMF") is a method of signaling that facilitates the transportation of call set-up and call detail information.<sup>13</sup> The FCC has recognized that "wireless carriers use out-of-band signaling mechanisms . . . . [It] is appropriate to support out-of-band signaling mechanisms as an alternative to DTMF signaling."<sup>14</sup> ACC currently uses out-of-band digital signaling and in-band multi-frequency signaling that is the functional equivalent of DTMF signaling, in accordance with the FCC's requirements.
- (d) Single-Party Service or its Functional Equivalent: The FCC has determined that a CMRS provider meets the requirement of offering single-party service when it offers a dedicated message path for the length of a user's particular transmission.<sup>15</sup> ACC meets the requirement of single-party service by providing a dedicated message path for the length of a user's wireless transmission in all of its service offerings.
- (e) Access to Emergency Service: "Access to emergency service" means the ability to reach a public service answering point ("PSAP") by dialing "911." The FCC also requires that a carrier provide access to enhanced 911 or "E-911," which includes the capability of providing both automatic numbering information ("ANI") and automatic location information ("ALI"), when the PSAP is capable of receiving such information and the service is requested from the carrier.<sup>16</sup> ACC currently provides all of its customers with the ability to access emergency services by dialing "911." ACC is committed to the deployment of E-911 service and will work with the PSAPs within its designated service areas to make E-911 service available according to the FCC's requirements.
- (f) Access to Operator Services: "Access to operator services" means any automatic or live assistance provided to a customer to arrange for the billing or completion,

<sup>10</sup> 47 C.F.R. § 54.101(a)(1).

<sup>11</sup> 47 C.F.R. § 54.101(a)(2).

<sup>12</sup> *Virginia Cellular Order*, ¶ 20.

<sup>13</sup> 47 C.F.R. § 54.101(a)(3).

<sup>14</sup> *Universal Service Order*, ¶ 71.

<sup>15</sup> 47 C.F.R. § 54.101(a)(4).

<sup>16</sup> 47 C.F.R. § 54.101(a)(5).



or both, of a telephone call.<sup>17</sup> ACC meets this requirement by providing all of its customers with access to operator services provided either by ACC or third parties.

- (g) Access to Interexchange Service: "Access to interexchange service" means the ability to make and receive toll or interexchange calls.<sup>18</sup> ACC currently meets this requirement by providing all of its customers with the ability to make and receive interexchange calls. Equal access to interexchange service, *i.e.*, the ability of a customer to access a presubscribed long distance carrier by dialing 1+number, is not required.<sup>19</sup> Nevertheless, ACC acknowledges that the FCC may require a competitive ETC to provide equal access if all other ETCs in the designated service areas relinquish their designations pursuant to Section 214(e)(4) of the Act.
- (h) Access to Directory Assistance: "Access to directory assistance" means the ability to provide access to a service that makes directory listings available.<sup>20</sup> ACC currently meets this requirement by providing all of its customers with access to directory assistance by dialing "411" or "555-1212."
- (i) Toll Limitation Services: An ETC must offer "toll limitation" services to qualifying low-income consumers at no charge. FCC Rule 54.400(d) defines "toll limitation" as either "toll blocking" or "toll control" if a carrier is incapable of providing both, but as both "toll blocking" and "toll control" if a carrier can provide both. Toll blocking allows consumers to elect not to allow the completion of outgoing toll calls. Toll control allows consumers to specify a certain amount of toll usage that may be incurred per month or per billing cycle.<sup>21</sup> ACC is not, at this time, capable of providing toll control. However, ACC is capable of providing toll blocking and offers toll blocking to prospective Lifeline customers in the State in which the Company has been designated an ETC. Once designated as an ETC in Minnesota, ACC will utilize its existing toll-blocking technology to provide the service at no additional charge to requesting Lifeline customers.

**C. ACC Will Offer and Advertise the Availability of, and Charges for, the Supported Services Throughout Its Service Areas**

21. The third requirement for ETC designation is that an applicant advertise the availability of, and charges for, the supported services using media of general distribution.<sup>22</sup>

ACC currently offers and advertises its wireless telecommunications services to customers in

<sup>17</sup> 47 C.F.R. § 54.101(a)(6).

<sup>18</sup> 47 C.F.R. § 54.101(a)(7).

<sup>19</sup> *Universal Service Order*, ¶ 78; 47 U.S.C. § 332(c)(8).

<sup>20</sup> 47 C.F.R. § 54.101(a)(8).

<sup>21</sup> 47 C.F.R. § 54.500(b)-(c).

<sup>22</sup> 47 U.S.C. § 214(e)(1)(B).

Minnesota using media of general distribution, including radio, television, billboard, print advertising, and the Internet at [www.celloneusa.com](http://www.celloneusa.com). ACC also maintains various retail store locations and sales agents throughout its licensed service areas, which provide an additional source of advertising. A copy of ACC's proposed advertising plan for the requested ETC Service Areas is included as Attachment 5. Once designated as a federal ETC, ACC will advertise the availability of its service offerings and the corresponding rates for those services throughout its Service Areas through media of general distribution in a manner that fully informs the general public. ACC's advertisement of its service offerings will be a part of and integrated into its current advertising for its existing array of services and offerings in a manner that fully complies with federal requirements and ACC commits to such advertisements in the future.

**D. ACC Will Provide Services Throughout Its Designated Areas**

22. ACC is seeking designation in certain non-rural telephone company wire centers and rural telephone company study areas where the Company provides coverage for the entire study area. In addition, ACC is seeking designation in several rural telephone company study wire centers where the service area requirement has previously been redefined from the study area level to the wire center level.<sup>23</sup> Once a service area has been redefined, the service area requirement is redefined for all other carriers seeking designation within the service area. As

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<sup>23</sup> *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket 96-45, *Report and Order*, FCC 05-46, ¶ 76 n. 213 (rel. March 17, 2005) ("*March 2005 Order*") (redefinition of Citizens Telecom Co., Melrose Tel. Co.; United Telephone Co. of Minnesota); *In the Matter of Cellular Mobile Systems of St. Cloud Petition for FCC Agreement to Redefine the Study Areas of Four Rural Telephone Companies in Minnesota*, CC Docket 96-45, *Petition for Redefinition* (July 2, 2004) (redefinition of Benton Coop. Tel. Co.; Citizens Telecom Co.); *Minnesota Public Utilities Commission for Agreement to Redefine the Service Area of Frontier Communications of Minnesota, Inc.* (November 29, 2000) (redefinition of Frontier Communications of Minnesota, Inc.); *Petition of RCC Minnesota, Inc. and Wireless Alliance, LLC for Redefinition of Rural Telephone Company Service Areas*, CC Docket No. 96-45, *Petition for Redefinition* (August 27, 2004) (redefinition of CenturyTel of Minnesota, Inc.; Loretel Systems, Inc.; Mid-State Tel. Co.; Federated Tel. Coop.; and Twin Valley – Ulen Tel. Co. Inc.).

such, ACC can be designated in these individual wire centers even though the Company does not serve throughout the entire study area.

23. ACC is a facilities-based provider which owns or leases its own facilities within the areas in which the Company is seeking ETC designation. The existing facilities that will be used to provide service in the requested Service Areas include the same CMRS radio frequency, cell site, radio links, trunks and mobile switching centers otherwise used to provide CMRS services in Minnesota. ACC's mobile switching centers used to provide service in the requested Service Areas are located in: Baxter, Minnesota; Caro, Michigan; and Duluth, Minnesota. ACC will not need to construct or obtain any additional network facilities to provide service in response to a reasonable request for service in the Service Areas.

24. Consistent with the obligations of a competitive federal ETC, ACC is committed and able to provide service to all customers within its Service Areas upon reasonable request. To ensure its ability to meet reasonable requests for service, ACC will comply with the service extension commitments previously accepted by the FCC and by this Commission. Thus, ACC commits to provide service as an ETC throughout its Service Areas using its own facilities or, if necessary, a combination of its own facilities and resale of another carrier's services.<sup>24</sup> If ACC receives a request for service from a potential customer residing within its ETC Service Area and existing network signal coverage, ACC will provide service on a timely basis. If ACC receives a request for service from a potential customer who resides within its ETC Service Area, but outside the Company's existing signal coverage, ACC will:

- (a) determine whether the customer's equipment can be modified or replaced to provide acceptable service;

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<sup>24</sup> Although ACC does not currently anticipate having to utilize resale of another carrier's services, it will consider this option in the unlikely event the Company is otherwise unable to provide facilities-based service to requesting customers within its ETC Service Area.

- (b) determine whether a roof-mounted antenna or other network equipment can be deployed at the customer's premises to provide service;
- (c) determine whether adjustments at the nearest cell site can be made to provide service;
- (d) determine whether a cell-extender or repeater can be employed to provide service;
- (e) determine whether there are any other adjustments to network or customer facilities that can be made to provide service;
- (f) explore the possibility of offering the resold services of carriers with facilities available to that location; and/or
- (g) determine whether an additional cell site can be constructed to provide service, and evaluate the costs and benefits of using scarce high-cost support to serve the number of customers requesting service.

25. Finally, if ACC determines that there is no possibility of providing service without constructing a new cell site, it will report to the Commission the proposed cost of construction, the Company's position on whether the request for service is reasonable, and whether high-cost funds should be expended on the request.

26. The Commission has previously accepted these service commitments as sufficient for purposes of ETC designation.<sup>25</sup> As such, the Commission should determine ACC's commitment to provide the supported services to any customers within its Service Areas upon reasonable request is sufficient for purposes of ETC designation.

#### **V. DESIGNATING ACC AS AN ETC WILL SERVE THE PUBLIC INTEREST**

27. For an area served by a non-rural telephone company, the Commission must find that the designation of a competitive ETC is consistent with the public interest, convenience, and necessity. This standard is met where the applicant satisfies the prerequisites of 47 U.S.C. § 214(e)(1) and can offer consumers a competitive alternative to the incumbent carrier. As discussed above, ACC fully satisfies each of the requirements of 47 U.S.C. § 214(e)(1). In addition, ACC's unique service offerings will provide Minnesota consumers with a true

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<sup>25</sup> *Midwest Wireless Order*, pp. 5-6; *Western Wireless ETC II Order*, p. 8.

competitive alternative to the incumbent wireline carriers by increasing customer choice and access to innovative services and new technologies.

28. For areas served by rural telephone companies, the Commission must separately find that designating ACC as an additional ETC serves the public interest in accordance with 47 U.S.C. § 214(e)(2).

29. The Commission has previously applied a public interest analysis under 47 U.S.C. § 214(e)(2) considering: (1) whether customers are likely to benefit from increased competition; (2) whether designation of an ETC would provide benefits not available from incumbent carriers; (3) the impact of multiple designations on the federal universal service fund; (4) any commitments made regarding quality services provided by competing providers; and (5) whether customers would be harmed if the incumbent carrier exercised its option to relinquish its ETC designation.<sup>26</sup> Following this standard, the Commission should determine that it is in the public interest to designate ACC as an additional ETC.

**A. Granting ETC Designation Will Facilitate Competition to the Benefit of Consumers**

30. Increased competition can be expected to drive down prices, lead to better service quality, and promote the development of new, innovative services. As determined by the FCC:

We note that an important goal of the Act is to open local telecommunications markets to competition. Designation of competitive ETCs promotes competition and benefits consumers in rural and high-cost areas by increasing customer choice, innovative services, and new technologies. We agree with Western Wireless that competition will result not only in the deployment of new facilities and technologies, but will also provide an incentive to the incumbent rural telephone companies to improve their existing network to remain competitive, resulting in improved service to Wyoming consumers. In addition, we find that the provision of competitive service will facilitate universal service to the benefit of consumers in Wyoming by creating incentives to ensure that quality services are available at "just, reasonable, and affordable rates."

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<sup>26</sup> *Midwest Wireless Order*, pp. 7-11; *Western Wireless ETC I Order*, pp. 16-18.

We reject the general argument that rural areas are not capable of sustaining competition for universal service support. We do not believe that it is self-evident that rural telephone companies cannot survive competition from wireless providers. Specifically, we find no merit to the contention that designation of an additional ETC in areas served by rural telephone companies will necessarily create incentives to reduce investment in infrastructure, raise rates, or reduce service quality to consumers in rural areas. To the contrary, we believe that competition may provide incentives to the incumbent to implement new operating efficiencies, lower prices, and offer better service to its customers. . . .<sup>27</sup>

31. The Commission has previously determined that granting ETC status to a wireless carrier recognizes the importance of allowing rural consumers a choice of providers for their telecommunications needs.<sup>28</sup> Consumers should be able to choose services based on their own needs, and not just the service of the incumbent LEC. Designating ACC as a competitive ETC will allow the consumers in the requested Service Areas to choose their provider based on the price, services, service quality, customer service, and service availability offered by openly competing companies. In addition, with increased competitive choices, Minnesota consumers can expect lower rates and improved service as competition provides an incentive for the incumbent rural telephone companies to invest in new technologies and additional infrastructure.

32. ACC competitively markets a variety of service offerings, and ACC's service plans are offered to rural customers at the same rates offered in urban areas. A listing and description of ACC's service plans that will qualify for universal service support in the requested Service Areas is included as Attachment 6. In addition, ACC will provide a Basic Universal Service offering in the requested Service Areas upon designation with an unlimited amount of

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<sup>27</sup> *In the Matter of the Federal-State Joint Board on Universal Service, Western Wireless Corp. Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, CC Docket No. 96-45, *Memorandum Opinion and Order*, DA 00-2896, ¶¶ 17 & 22 (rel. Dec. 26, 2000) (emphasis added).

<sup>28</sup> *Western Wireless ETC I Order*, p. 16.

local usage. The benefits of increased competitive choice for consumers are in the public interest.<sup>29</sup>

**B. Granting ETC Designation Will Provide Benefits Not Otherwise Available**

33. ACC's service offerings will provide consumer benefits not otherwise available from the landline LECs.<sup>30</sup> The FCC has recognized the specific benefits and advantages of wireless service, including the provision of service to customers who do not have access to wireline service, the mobility of service and the availability of larger local calling areas.<sup>31</sup> The benefits and advantages of wireless service are particularly important in rural and insular areas, where the FCC has found that the mobility and access to emergency services offered by wireless carriers can mitigate the unique risks of geographic isolation.<sup>32</sup>

34. The safety benefits associated with ACC's mobile wireless services are undisputed. The National Telecommunications Cooperative Association ("NTCA") – the “preeminent telecommunications industry organization dedicated exclusively to representing and serving the interests of the nation’s small, rural incumbent local exchange carriers” – recently acknowledged the essential safety benefits of wireless service in its 2004 Rural Youth Telecommunications Survey:

An astonishing 86% of survey respondents said they have their own wireless phone, leaving only 14% without. This penetration rate among rural teens, which is significantly higher than estimations for the youth market on a national level, most likely is attributed to the safety and convenience issues associated with life in small towns. While statistics show that the crime rates in small towns typically are lower than those in urban areas, safety still is a major concern due to the spread-out nature of rural communities, the long distances traveled to go to school or sports activities, and the steady decline of payphones in small communities. When a teen becomes stranded with a flat tire on a rural road at night, a personal,

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<sup>29</sup> *Midwest Wireless Order*, p. 8; *Virginia Cellular*, ¶ 29.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

mobile communication device is more than a convenience. It is a safety tool. The fear of scenarios such as this provides much of the push behind wireless penetration in rural youth markets. For this reason, a mobile wireless device increasingly is seen as more of a necessity than a luxury in rural America.

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One might think that teens provide the impetus for subscribing to wireless telephone service. However, further investigation reveals that many don't even have to ask for the phone, but instead are offered the device by their parents, as 60% of survey takers indicated that their parent or guardian pays for the service. Safety issues and the desire to "keep in touch" were the prime motivating factors behind the parental purchases of wireless service.<sup>33</sup>

35. Likewise, NTCA acknowledged the critical importance of rural/urban telecommunications parity to long-term economic development as follows:

Rural America is threatened by a "brain drain" — its young people typically go away to college in larger metropolitan areas, and in many cases, leave behind for good their rural homes to live in urban areas after graduation. This loss of an educated labor force could have a potentially dramatic impact on the future viability of rural America. The ability to offer the same state-of-the-art telecommunications services as are available in non-rural areas could play a significant role in increasing the attractiveness and livability of rural communities.<sup>34</sup>

36. Designating ACC as an ETC in its requested ETC Service Areas will promote competition and provide benefits to consumers, including customer choice and access to innovative services. ACC is well-positioned to offer Minnesota consumers a true competitive alternative to the incumbent telephone companies. ACC is fully committed to providing industry-leading wireless service to its Minnesota customers.

37. ACC has also undertaken an aggressive approach to the improvement and upgrading of its network facilities to provide cutting edge technology to its Minnesota subscribers. The Company operates Time Division Multiple Access (TDMA) technology in

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<sup>33</sup> NTCA 2004 Rural Youth Telecommunications Survey, p. 2 & 5 (emphasis added). Available at [http://www.ntca.org/content\\_documents/2004RuralYouthTelecommunicationsSurvey.pdf](http://www.ntca.org/content_documents/2004RuralYouthTelecommunicationsSurvey.pdf).

<sup>34</sup> *Id.*, p. 1.



100% of its managed networks. In 2004, the Company completed an upgrade to the Global System for Mobile Communications (GSM) networks throughout all markets. ACC now offers the most advanced available array of wireless services, utilizing both TDMA and GSM/GPRS/EDGE wireless technologies. The Company continues to lead the way for the telecommunications industry, now focused on developing 3G services that will provide wireless data services at high speeds.

38. ACC's service offerings will benefit rural customers in Minnesota who may not have access to telecommunications services, will provide the multiple benefits of mobility (including increased access to emergency services), and will include larger local calling areas than those of the incumbent local exchange carriers. Other benefits and advantages of ACC's service offerings include state-of-the-art network facilities; reduced long-distance rates; competitive pricing; 24-hour customer service; enhanced features, such as voice-mail, caller-ID, call-waiting, and call-forwarding; and high-speed data functions including wireless email and Internet access.

39. The Commission, in previously designating a wireless carrier as a competitive ETC, noted that designating the carrier would further "at least three of the goals underlying federal and state policies favoring competition—customer choice, innovative services, new technologies."<sup>35</sup> Designating ACC will continue to further these same Commission-recognized goals. Designating ACC as a competitive ETC will also provide Minnesota consumers in rural and high-cost areas with access to all of the benefits and advantages discussed above and will provide an enhanced ability for consumers to choose their telecommunications provider based on their own needs. Furthermore, all consumers will benefit from ACC's use of universal service

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<sup>35</sup> *Western Wireless ETC I Order*, p. 16.

support to improve and expand its existing network and, thereby, expand the availability and quality of its services.

**C. ACC's Designation Will Not Burden the Federal Universal Service Fund**

40. ACC's designation as an additional ETC in this docket will not dramatically impact or burden the federal universal service fund. The FCC has acknowledged that universal service support to competitive ETCs accounts for only a small percentage of the increase in the size of the fund, while disbursements to incumbent carriers continue to substantially increase the size of the fund.<sup>36</sup> The FCC has expressly determined that the designation of an additional ETC will not dramatically burden the universal service fund.<sup>37</sup> Similarly, this Commission has previously considered the impact of designating a single additional ETC on the universal service fund and determined the impact would be minimal.<sup>38</sup> Moreover, the Commission has noted that it would be inequitable for qualified Minnesota providers and Minnesota ratepayers not to derive the benefits of receiving federal universal service support since they are already paying into it.<sup>39</sup> As a result, the Commission should follow existing precedent and recognize that any impact on the universal service fund from the designation of ACC as an additional ETC is minimal and not contrary to the public interest.

41. Not only does precedent stipulate that any impact on the universal service fund from the designation of an additional ETC is minimal, but also the best available data concerning

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<sup>36</sup> *Midwest Wireless Order*, p. 10; *Western Wireless ETC II Order*, p. 7; *Virginia Cellular*, ¶ 31 n. 98.

<sup>37</sup> *Virginia Cellular*, ¶ 31; *In the Matter of Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, Memorandum Opinion and Order, FCC 04-37 ¶ 25 (rel. Apr. 12, 2004) ("*Highland Cellular*") ("we find that grant of this ETC designation will not dramatically burden the universal service fund"); *In the Matter of Advantage Cellular Systems, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the state of Tennessee*, CC Docket No. 96-45, *Order*, DA 04-3357, ¶ 25 and n. 82 (rel. Oct. 22, 2004) ("*Advantage Cellular*").

<sup>38</sup> *Midwest Wireless Order*, p. 11.

<sup>39</sup> *Midwest Wireless Order*, pp. 10-11.

ACC's designation in this proceeding confirms such a conclusion. ACC has received no prior universal service support in Minnesota since the Company has not previously been designated in Minnesota. If the Commission grants ACC's Petition, the Company estimates, based on projections by the Universal Service Administrative Company, that it would be eligible to receive approximately \$511,000 per month in high-cost universal service support. This estimate represents approximately 0.15% of the total high-cost support available to all ETCs for the third quarter of 2005.<sup>40</sup> Accordingly, designating ACC as a competitive ETC throughout its requested Service Areas would have only a minimal impact on the federal universal service fund.<sup>41</sup>

**D. ACC's Commitment to Service Quality**

42. ACC is committed to providing high service quality to its customers consistent with the public interest. Specifically, ACC has adopted and is committed to compliance with the CTIA Code in the areas where it is seeking designation as a competitive ETC. Moreover, ACC commits to reporting to the Commission the number of consumer complaints per 1,000 handsets on an annual basis. The FCC considers such a commitment to fully demonstrate a company's commitment to service quality.<sup>42</sup>

43. The public interest will also be served by ACC's capability and commitment to meet service requests within a reasonable period of time. In *Virginia Cellular*, the FCC accepted the applicant's specific commitment to follow a multi-step, graduated process to evaluate service

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<sup>40</sup> See Federal Universal Service Support Mechanisms Fund Size Projections for the Third Quarter of 2005, Appendix HC 01 (Universal Service Administrative Company, May 2, 2005) (determining total quarterly high-cost universal service support available to ETCs to be \$1,018,894,249). Available at [www.universalservice.org/overview/filings/2005/Q3/](http://www.universalservice.org/overview/filings/2005/Q3/).

<sup>41</sup> See, e.g., *In the Matter of Advantage Cellular Systems, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the State of Tennessee*, CC Docket No. 96-45, Order, DA 04-3357, ¶ 25, n. 82 (rel. Oct. 22, 2004) (0.419% increase inconsequential); *In the Matter of NPCR, Inc. d/b/a Nextel Partners Petition for Designation as an Eligible Telecommunications Carrier in the State of Alabama, Florida, Georgia, New York, Pennsylvania, Tennessee, and Virginia*, CC Docket No. 96-45, Order, DA 04-2667, ¶ 21, n. 69 (rel. Aug. 25, 2004) (1.88% increase inconsequential).

<sup>42</sup> *Virginia Cellular Order*, ¶ 30; *March 2005 Order*, ¶ 28.

requests from an area outside its existing coverage area.<sup>43</sup> Virginia Cellular committed to taking the following steps to respond to all reasonable requests for service:

- (1) modifying or replacing the customer's equipment to provide service;
- (2) deploying a roof-mounted antenna or other equipment to provide service;
- (3) adjusting the nearest cell tower to provide service;
- (4) adjusting network or customer facilities to provide service;
- (5) offering resold services from another carrier's facilities to provide service; and
- (6) employing, leasing or constructing an additional cell site, cell extender, repeater or other similar equipment.<sup>44</sup>

44. In addition, the Commission has accepted these same commitments previously in designating a wireless carrier as an ETC.<sup>45</sup>

45. ACC commits to follow the same procedures approved by the Commission and the FCC to provide service to all requesting customers within the Company's Service Areas upon reasonable request.

46. Accordingly, the Commission should find that designating ACC as a competitive ETC will serve the public interest.

**E. Customers Will Not Be Harmed By ACC's Designation**

47. The Commission has previously considered any risks of harm to consumers caused by an incumbent carrier's decision to relinquish its ETC designation.<sup>46</sup> Any such risk occasioned by the designation of ACC is extremely small, highly speculative and ultimately manageable pursuant to the statutory procedures set forth in 47 U.S.C. § 214(e)(4). Moreover, any relinquishment of ETC status by an incumbent, one thereby forgoing eligibility to receive

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<sup>43</sup> *Virginia Cellular Order*, ¶ 15.

<sup>44</sup> *Id.*

<sup>45</sup> *Western Wireless II ETC Order*, p. 8.

<sup>46</sup> *Western Wireless ETC I Order*, p. 18.

universal service support, would not relieve the incumbent of carrier of last resort obligations under Minnesota law.<sup>47</sup>

**F. No Rural LEC Will Experience Any Significant Adverse Impact from ACC's ETC Designation to Justify Denying Consumers the Benefits of Competition**

48. The designation of ACC as an ETC in the requested Service Areas will not result in any significant adverse impact to any rural telephone company. None of the areas in which ACC is seeking designation is incapable of supporting an additional ETC.

49. Under the current federal universal service funding mechanisms, rural telephone companies will continue to receive funding based on an embedded cost methodology until at least 2006. This extended transition period – as well as their continued receipt of implicit subsidies within intrastate access rates – ensures the rural companies can move successfully to competitive markets.

**VI. REDEFINITION OF SERVICE AREA REQUIREMENT FOR CERTAIN RURAL TELEPHONE COMPANIES**

50. ACC's request for ETC designation in certain rural telephone company areas is subject to the Commission's action to redefine the service area requirement set forth in 47 U.S.C. § 214(c)(5) and 47 C.F.R. § 54.207(b). Specifically, ACC requests that the Commission redefine the service area requirement for purposes of facilitating its designation in the areas served by Paul Bunyan Rural Telephone Coop. ("Paul Bunyan") and Red River Rural Telephone Assoc. ("Red River"). Because of the limitations of its FCC license to provide wireless service, ACC is able to serve certain wire centers within each of these companies' study areas, but is not able to serve the entire study area of each of these companies. Absent redefinition of the service area requirement, ACC would be prohibited from being designated as a competitive ETC in any of

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<sup>47</sup> *Id.*

the wire centers within the Paul Bunyan and Red River study areas where it can serve today. The specific wire centers for which designation is requested are set forth in Attachment 2.

51. As discussed above, the Act and the FCC's rules provide that the service area of a rural telephone company shall be the "study area" of the rural telephone company, until and unless the FCC and the State commission agree to redefine the service area.<sup>48</sup> In order to redefine the service area requirement, both the Commission and the FCC are required to give full consideration to three factors set forth in recommendations made by the Federal-State Joint Board on Universal Service ("Joint Board"). The three Joint Board considerations include: (1) the risk that an ETC applicant will seek designation only in low-cost, high-support areas, a practice referred to as "cream skimming;" (2) any effect redefinition may have on the rural telephone company's regulatory status; and (3) any additional administrative burdens that may result from redefinition.

**A. ACC's Request for Redefinition Does Not Create a Risk of Either Intentional Cream Skimming or Any Unintentional Effects of Cream Skimming**

**1. ACC is Not Engaging In Intentional Cream Skimming**

52. ACC is seeking ETC designation in each wire center of Paul Bunyan and Red River fully located within its FCC-licensed boundaries, subject to redefinition of the service area requirement. ACC is seeking redefinition only in areas where it is not licensed by the FCC to serve the entire study area of these rural telephone companies. In areas where ACC is requesting redefinition, the Company is seeking redefinition of the service area from the study area to the full wire center level.<sup>49</sup>

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<sup>48</sup> 47 U.S.C. § 214(e)(5); 47 C.F.R. § 54.207(b).

<sup>49</sup> ACC is not seeking redefinition to the partial wire center level. The FCC addressed and declined to grant partial wire center redefinition in *Highland Cellular*. Because all of the wire centers for which ACC is seeking designation are located entirely within its FCC-licensed service area boundaries, the concern addressed in *Highland Cellular* are not present here.

53. The FCC has expressly rejected the argument that a wireless carrier seeking ETC designation in the wire centers within its FCC-licensed boundaries is engaging in intentional cream skimming.<sup>50</sup> In other words, cream skimming concerns are eliminated because ACC has not specifically picked the areas in which it will serve, but instead seeks to serve all possible areas, limited only by its FCC's wireless license. Since ACC is seeking designation for all wire centers entirely located within the scope of its licensed boundaries in each study area, the Commission should conclude there is no evidence of any intentional cream skimming.

2. ACC's Designation Will Not Result in Any Effect of Cream Skimming

54. The FCC has noted that in certain situations, an ETC applicant's request for redefinition could – through no fault of the applicant – have the unintended effect of cream skimming in particular rural telephone company study areas.<sup>51</sup>

55. However, the risk of cream skimming has been virtually eliminated by the FCC's implementation of the disaggregation mechanism set forth in 47 C.F.R. § 54.315. The FCC offered rural telephone companies the option to “disaggregate” – *i.e.*, target – the federal universal service support amounts they receive to the higher-cost portions of their study areas. In so doing, rural telephone companies were given the opportunity to target support to ensure that a competitive ETC would receive less per-line support in low-cost areas and, conversely, to ensure that a competitive ETC would only receive higher per-line support in truly high-cost portions of their study areas. The FCC has concluded that the disaggregation mechanism has “substantially eliminated” any cream skimming concerns.<sup>52</sup>

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<sup>50</sup> *Virginia Cellular*, ¶ 32.

<sup>51</sup> *Virginia Cellular*, ¶ 33.

<sup>52</sup> *In the Matter of Federal-State Joint Board on Universal Service Petitions for Reconsideration of Western Wireless Corporation's Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, CC Docket No. 96-45, *Order on Reconsideration*, FCC 01-311 ¶ 12 (rel. Oct. 19, 2001).

56. A rural telephone company's choice not to target support indicates that the company does not perceive the risk of cream skimming to be of concern within its study area.<sup>53</sup> Neither Paul Bunyan nor Red River has chosen to disaggregate support. The Commission should, therefore, conclude there are no cream skimming concerns in the areas for which ACC requests redefinition.

57. The FCC also conducts a population density analysis as a proxy to assess the risk of unintentional cream skimming. A population density analysis compares the population density of the wire centers where ETC designation is requested to the population density of the wire centers where ETC designation is not requested.<sup>54</sup> In this instance, results of a population density analysis confirm that the effects of cream skimming will not occur as a result of ACC's designation in the Paul Bunyan and Red River areas.

58. Using publicly available information regarding the geographic area and population of each wire center, ACC has calculated the population density per square mile for the Paul Bunyan and Red River areas in which the Company is seeking ETC designation and for the Paul Bunyan and Red River areas in which it is not seeking ETC designation. A table comparing these population densities is included as Attachment 7. Spreadsheets detailing the underlying data, including the area, population, and population density for each wire center within the Paul Bunyan and Red River study areas are included as Attachment 8.

59. The population density analysis set forth in Attachment 7 confirms that no inadvertent effects of cream skimming will result from ACC's redefinition request in this

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<sup>53</sup> See *In The Matter of the Application of N.E. Colorado Cellular, Inc. to Re-Define the Service Area of Eastern Slope Rural Telephone Association, Inc., Great Plains Communications, Inc., Plains Coop Telephone Association, Inc. and Sunflower Telephone Co., Inc.*, Docket No. 02A-444T, *Decision Denying Exceptions and Motion to Reopen Record*, Decision No. C03-1122, ¶ 38 (Aug. 27, 2003) (decision of rural carriers not to target support "is probative evidence of the carriers' lack of concern with cream skimming").

<sup>54</sup> *Virginia Cellular*, ¶ 34; *Highland Cellular*, ¶ 28.



proceeding. Specifically, in both the Paul Bunyan and Red River study areas, the population density in the areas for which ACC is seeking designation is lower than the population density in the areas in which ACC is not seeking designation. Therefore, no effects of cream skimming will occur as a result of ACC's designation in these areas.

60. As such, the results of the population density analysis demonstrate that no inadvertent effects of cream skimming will occur as a result of ACC's request for redefinition.

61. Moreover, in the event that there were still concerns regarding the potential effects of cream skimming, Paul Bunyan and Red River retain the option to disaggregate federal universal support amounts they receive to the higher-cost portions of their study areas. Targeting of support through the disaggregation process remains an option to these companies, and the Commission can compel the companies to disaggregate support.<sup>55</sup> Accordingly, any concerns that may remain regarding the unintended effects of cream skimming can be abated through the disaggregation process.

**B. Service Area Redefinition Does Not Affect A Rural Telephone Company's Regulatory Status**

62. The Joint Board's second factor that must be considered as part of a redefinition analysis is whether redefinition will have any effect upon the unique status enjoyed by rural telephone companies under the Act. In short, redefinition will have no effect upon Paul Bunyan or Red River's regulatory status as a rural telephone company. Nothing in the service area redefinition process affects a rural carrier's statutory exemptions from interconnection, unbundling and resale requirements under Section 251(c). Redefining the service area requirement as requested herein will not compromise or impair the unique treatment of these companies as rural telephone companies under Section 251(f) of the Act. Even after their service

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<sup>55</sup> See *Virginia Cellular*, ¶ 35 n.112; 47 C.F.R. § 54.315.

areas are redefined for purposes of ETC designations, Paul Bunyan and Red River will still retain the statutory exemptions from interconnection, unbundling and resale requirements under Section 251(c).

63. Additionally, as the FCC recently confirmed, the redefinition process does not affect the way in which the rural telephone companies calculate their embedded costs or the amount of per-line support they receive:

(1) the high-cost universal service mechanisms support all lines served by ETCs in rural areas; (2) receipt of high-cost support by [the applicant] will not affect the total amount of high-cost support that the incumbent rural telephone company receives; (3) to the extent that [the applicant] or any future competitive ETC captures incumbent rural telephone company lines to existing wireline subscribers, it will have no impact on the amount of universal service support available to the incumbent rural telephone companies for those lines they continue to serve; and (4) redefining the service areas of the affected rural telephone companies will not change the amount of universal service support that is available to these incumbents.

\* \* \*

Under the Commission's rules, receipt of high-cost support by [a competitive ETC] will not affect the total amount of high-cost support that the incumbent rural telephone company receives.<sup>56</sup>

64. Rather, the redefinition process only modifies the service area requirement for purposes of designating a competitive ETC. Thus, Paul Bunyan and Red River will retain their unique regulatory status as rural telephone companies under the Act consistent with the Joint Board's recommendations.

**C. Redefinition Does Not Create Any Administrative Burdens**

65. The third and final factor to consider is whether any administrative burdens will result from the redefinition of the service area requirement. A rural telephone company's universal service support payments are currently based on a rural company's embedded costs

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<sup>56</sup> *Virginia Cellular*, ¶¶ 41, 43; see also *Highland Cellular*, ¶ 40.

determined at the study area level.<sup>57</sup> The FCC has recently confirmed that redefinition does not affect this calculation or create any additional administrative burdens:

[R]edefining the rural telephone company service areas as proposed will not require the rural telephone companies to determine their costs on a basis other than the study area level. Rather, the redefinition merely enables competitive ETCs to serve areas that are smaller than the entire ILEC study area. Our decision to redefine the service areas does not modify the existing rules applicable to rural telephone companies for calculating costs on a study area basis, nor, as a practical matter, the manner in which they will comply with these rules. Therefore, we find that the concern of the Joint Board that redefining rural service areas would impose additional administrative burdens on affected rural telephone companies is not at issue here.<sup>58</sup>

Just as in *Virginia Cellular*, redefinition of the Paul Bunyan and Red River areas in this proceeding will have no effect on the rural telephone companies' calculation of their costs and will not create any additional burdens.

66. The Commission can, therefore, proceed to redefine the service area requirement as outlined above while appropriately taking into account the three factors noted by the Joint Board and adopted by the FCC. Accordingly, the Commission should act to redefine the service area requirement to the individual wire center level for Paul Bunyan and Red River, as specifically identified on Attachment 2, in order to foster competition and promote the expansion of new telecommunications services in rural and high cost areas of Minnesota.

**D. Redefinition is Necessary to Promote Competition and Advance Universal Service**

67. Redefinition of the service area standard for Paul Bunyan and Red River is necessary for the promotion of competition and the advancement of universal service. Unless the service area standard is redefined, ACC is precluded from being designated as an ETC in *any* of these rural telephone companies' wire centers because ACC cannot serve the entire study area.

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<sup>57</sup> *Universal Service Order*, ¶ 189.

<sup>58</sup> *Virginia Cellular*, ¶ 44 (emphasis added).

Redefinition is in the public interest because it will enable ACC, and other competitors, to bring new services and new technologies to customers of these rural telephone companies.

68. A study area requirement creates a disincentive to competition. This type of barrier to entry was appropriately recognized by the WUTC when it successfully applied to the FCC to redefine the service areas for the rural LECs in the State of Washington. The WUTC noted: "The designation of the service area impacts the ease with which competition will come to rural areas . . . . The wider the service area defined by the state commission, the more daunting the task facing a potential competitor seeking to enter the market."<sup>59</sup> The WUTC concluded that smaller service areas for the designation of ETCs in rural areas will promote competition and speed deregulation.<sup>60</sup>

69. The FCC has previously determined that redefinition of the service area from the study area to the wire center basis facilitates local competition by enabling new providers to serve relatively small areas.<sup>61</sup> The FCC noted: "We find that our concurrence with rural LEC petitioners' request for designation of their individual exchanges as service areas is warranted in order to promote competition."<sup>62</sup> The FCC concluded that Washington's "effort to facilitate local competition justifies [the FCC's] concurrence with the proposed service area designation."<sup>63</sup>

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<sup>59</sup> *Petition for Agreement With Designation of Rural Company Eligible Telecommunications Carrier Service Areas at the Exchange Level and for Approval of the Use of Disaggregation of Study Areas for the Purpose of Distributing Portable Federal Universal Service Support*, Washington Util. & Transp. Comm'n, Docket No. 970380, at ¶ 3 (Aug. 1998).

<sup>60</sup> *Id.* at ¶ 9.

<sup>61</sup> *In the Matter of Petition for Agreement With Designation of Rural Company Eligible Telecommunications Carrier Service Areas and for Approval of the Use of Disaggregation of Study Areas of the Purpose of Distributing Portable Federal Universal Service Support*, Memorandum Opinion and Order, CC Docket No. 96-45, DA 99-1844, ¶ 8 (rel. Sept. 9, 1999).

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

70. Redefinition of service area requirement for Paul Bunyan and Red River to an individual wire center basis will foster competition in Minnesota. Redefining the service area for purposes of determining ACC's ETC service areas will enable ACC to offer competitive universal services to the customers of these rural telephone companies. This fostering of competition comports with the goals of the Act and the FCC's directives. Unless the Commission approves of the redefinition, the customers of these rural telephone companies' wire centers ACC desires to serve will be denied all the benefits of competition that Congress and the FCC have sought to foster. Accordingly, this Commission should order that the service areas of Paul Bunyan and Red River, as identified on Attachment 2, be redefined into service areas on an individual wire center basis for the purpose of designating ACC as a competitive federal ETC in those areas it is licensed to serve.

71. Pursuant to 47 C.F.R. § 54.207, ACC will petition the FCC for concurrence with its service area redefinition in this proceeding.

**E. High-Cost Certification**

72. Under the FCC's Rules, states that desire ETCs within their jurisdiction to receive high-cost universal service support must file an annual certification with the Universal Service Administrative Company ("USAC") and the FCC stating that all federal high-cost support provided to such carriers will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.<sup>64</sup> Accordingly, ACC requests that the Commission certify ACC's use of support effective the date of the Company's ETC designation.

73. In order for ACC to receive high-cost universal service support commencing the date of the Company's ETC designation, the Commission may need to supplement its annual

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<sup>64</sup> 47 C.F.R. §§ 54.313(a), 54.314(a).

certification due October 1, 2005, by separately certifying ACC's use of such support. The FCC's Rules provide that state commissions may file supplemental certifications for carriers not subject to the State's annual certification, such as those carriers who were not yet designated as ETCs at the time.<sup>65</sup> Accordingly, ACC respectfully requests that the Commission supplement its annual certification by separately certifying ACC's use of support and transmitting a letter to the FCC and USAC in the form attached here as Attachment 9.

74. In support of ACC's request, the Company hereby certifies that it will utilize all federal high-cost universal service support it receives on or after the date of its designation as a competitive ETC only for the provision, maintenance, and upgrading of facilities and services for which the support is intended pursuant to 47 U.S.C. § 254(e).

## **VII. OTHER REQUIRED DISCLOSURES**

75. A person wishing to challenge this Petition's form and completeness must do so within ten days of its filing pursuant to Minn. Rule 7811.1400, subp. 6.

76. A person wishing to comment on this Petition must file initial comments within 20 days of its filing pursuant to Minn. Rule 7811.1400, subp. 8. Initial comments must include a recommendation on whether the filing requires a contested case proceedings, expedited proceeding, or some other procedure, together with reasons for the recommendation. *Id.*

77. If a person who wishes to file initial comments is not entitled to intervene in a commission proceeding as of right and desires full party status, the person shall file a petition to intervene pursuant to Minn. Rule 7829.0800, or Minn. Rule 1400.6200 if the matter is before an administrative law judge, before the comment period expires. Minn. Rule. 7811.1400, subp. 9. The intervention petition may be combined with comments on the filing. *Id.*

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<sup>65</sup> 47 C.F.R. §§ 54.313(c), 54.314(c).

77. If a person who wishes to file initial comments is not entitled to intervene in a commission proceeding as of right and desires full party status, the person shall file a petition to intervene pursuant to Minn. Rule 7829.0800, or Minn. Rule 1400.6200 if the matter is before an administrative law judge, before the comment period expires. Minn. Rule. 7811.1400, subp. 9. The intervention petition may be combined with comments on the filing. *Id.*

78. Commenting parties have ten days from the expiration of the original comment period to file reply comments. Minn. Rule 7811.1400, subp. 10. Reply comments must be limited in scope to the issues raised in the initial comments. *Id.*

### **VIII. CONCLUSION**

79. Based on the foregoing, ACC respectfully requests that the Commission promptly grant this Petition and designate ACC as an ETC for the purposes of receiving federal universal support in Minnesota. Further, ACC requests that the Commission act to redefine the service area requirement in the Paul Bunyan and Red River service areas.

Dated: July 1<sup>st</sup>, 2005

Respectfully submitted,

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**ATTORNEYS FOR  
AMERICAN CELLULAR CORPORATION**

## ATTACHMENT 1

### Non-Rural Wire Centers, Rural Telephone Company Study Areas, and Previously Redefined Rural Telephone Company Wire Centers for which ACC is Seeking Designation

#### Non-Rural Telephone Company

<b>Non-Rural Telephone Company</b>	<b>Wire Center Name</b>	<b>CLLI Code</b>
Qwest	Appleton	APPLMNAP
	Barnum	BRNMMNBA
	Brainerd	BRNRMNBR
	Battle Lake	BTLKMNBA
	Buhl	BUHLMNBU
	Biwabik	BWBKMNBI
	Chisholm	CHSHMNCS
	Grand Rapids	CHSTMNCH
	Cloquet	CLQTMNCA
	Coleraine	CLRNMNCO
	Cambridge	CMBRMNCA
	Cook	COOKMNCO
	Carlton	CRTOMNCB
	Cass Lake	CSSLMNCL
	Duluth	DLTHMNAF
	Duluth	DLTHMNCB
	Duluth	DLTHMNDB
	Duluth	DLTHMNLA
	Duluth	DLTHMNME
	Duluth	DLTHMNP
	Detroit Lakes	DTLKMNDL
	Virginia	EVLTMNEV
	Silver Bay	FNLDMNFO
	Fergus Falls	FRFLMNFB
	Grand Marais	GDMRMNGM
	Grand Rapids	GDRPMNGR
	Glenwood	GLWDMNGL
	Hibbing	HBNGMNHI
	Hinckley	HNCKMNHI
	Henning	HNNGMNHE
	Duluth	ISLKMNIL
	Keewatin	KEWTMNKE
	Little Falls	LTFLMNL
	Moose Lake	MOLKMNML
	Mora	MORAMNMO
	Marble	MRBLMNMA
	Morris	MRRSMNMO
	Virginia	MTIRMNMI



<b>Non-Rural Telephone Company</b>	<b>Wire Center Name</b>	<b>CLLI Code</b>
	Nashwauk	NSHWMNNA
	Nisswa	NSSWMNNI
	Ogilvie	OGLVMNOA
	Ortonville	ORVLMNOR
	Pine City	PNCYMNPC
	Royalton	RYTNMNRN
	Silver Bay	SLBAMNSA
	Sandstone	SNDSMNSA
	Staples	SPLSMNST
	Swanville	SWVLMNSV
	Tofte	TOFTMNTB
	Virginia	VRGNMNV
	Bemidji	WADNMNWA
	Breckenridge	WHTNNDDB

**Rural Telephone Company Study Areas and Previously Redefined Rural Telephone Company Wire Centers**

<b>Rural Telephone Company</b>	<b>Study Area/Wire Center Name</b>	<b>CLLI Code</b>
Arrowhead Comm. Corp.	Full Study Area	Full Study Area
Arvig Tel. Co.	Full Study Area	Full Study Area
Benton Coop. Tel. Co.*	Bock	BOCKMNXB
Blackduck Tel. Co.	Full Study Area	Full Study Area
Callaway Tel. Co.	Full Study Area	Full Study Area
CenturyTel of Minnesota, Inc.*	Beardsley Clinton Campbell Graceville Gunflint Trail Hill City Hovland Orr Pierz	BRDSMNXA CLTNMNXA CMPBMNXA GCVLMNXA GNTRMNXA HLCYMNXA HVLDMNXA ORR MNXA PIRZMNXA
CenturyTel of Northwest Wisconsin, Inc.	Full Study Area	Full Study Area

Rural Telephone Company	Study Area/Wire Center Name	CLLI Code
Citizens Tel. Co. of Minnesota d/b/a Frontier Comm. Of Minnesota*	Alborn	ALBOMNXB
	Askov	ASKVMNXB
	Aurora	AURRMNXA
	Babbitt	BBTTMNXB
	Big Falls	BGFSMNXB
	Brookstone	BKTNMNXB
	Bear River	BRRVMNXB
	Brimson	BRSNMNXB
	Crane Lake	CNLKMNXB
	Cromwell	CRWLMNXC
	Denham	DNHMMNXD
	Ely	ELY MNXE
	Embarrass	EMBRMNXE
	Ericsburg	ERBGMNXE
	Floodwood	FLWDMNXF
	Finlayson	FNSNMNXF
	Greaney	GRNYMNXG
	Garrison	GRSNMNXG
	Gateway	GTWYMNXG
	Herman	HRMNMNXA
	Hoyt Lakes	HYLKMNXH
	International Falls	INFLMNXI
	Isabella Isle	ISBLMNXI
	Isle	ISLEMNXI
	Jacobson	JCBSMNXI
	Kabetogama	KBTGMNXN
	Kimberly	KMBRMNXX
	Kettle River	KTRVMNXX
	Little Fork	LTFKMNXL
	Malmo	MALMMNXM
	McGregor	MCGRMNXM
	Meadowlands	MDLDMNXA
	McGrath	MGRTMNXM
	Milaca	MILCMNXM
	Nickerson	NCSNMNXN
	Onamia	ONAMMNXO
	Palo	PALOMNXP
	Pease	PEASMNXP
	Palisade	PLSDMNXP
	Ranier	RANRMNXR
	Sturgeon Lake	SGLKMNXS
	Tower	TOWRMNXA
	Two Harbors	TWHRMNXA

<b>Rural Telephone Company</b>	<b>Study Area/Wire Center Name</b>	<b>CLLI Code</b>
	Warba Wahkon Wheaton Wright	WARBMNXA WHKNMNXXW WHTNMNXW WRGHMNXXW
Consolidated Tel. Co. – Minnesota	Full Study Area	Full Study Area
Crosslake Telephone Company	Full Study Area	Full Study Area
Eagle Valley Tel. Co.	Full Study Area	Full Study Area
East Otter Tail Tel. Co.	Full Study Area	Full Study Area
Emily Coop. Tel. Co.	Full Study Area	Full Study Area
Federated Tel. Coop.*	Chokio Correll Danvers Holloway Odessa	CHOKMNXC CRRLMNXA DNVSMNXD HLWYMNXA ODSSMNXO
Federated Utilities, Inc. d/b/a Hancock Tel. Co.	Full Study Area	Full Study Area
Gardonville Coop. Tel. Assn.	Full Study Area	Full Study Area
Johnson Telephone Company	Full Study Area	Full Study Area
Loretel Systems, Inc.*	Audubon Cormorant Frazee Lake Park	ADBNMNXA CRMNMNXC FRAZMNXF LKPKMNXL
Lowry Telephone Company, LLC	Full Study Area	Full Study Area
Melrose Telephone Company*	Grey Eagle	GRYEMNXG
Mid-State Telephone Company*	Sedan Terrace	SEDNMNXX TRRCMNXT
Midwest Tel. Co.	Full Study Area	Full Study Area
Northern Telephone Company of Minnesota	Full Study Area	Full Study Area

<b>Rural Telephone Company</b>	<b>Study Area/Wire Center Name</b>	<b>CLLI Code</b>
Osakis Telephone Company	Full Study Area	Full Study Area
Park Region Mutual Tel. Co.	Full Study Area	Full Study Area
Peoples Telephone Company – MN	Full Study Area	Full Study Area
Rothsay Telephone Company, Inc.	Full Study Area	Full Study Area
Runestone Tel. Assn.	Full Study Area	Full Study Area
Starbuck Tel. Co.	Full Study Area	Full Study Area
Twin Valley – Ulen Tel. Co., Inc.*	Ulen White Earth	ULENMNXU WHERMNXW
United Telephone Co. of Minnesota*	Alexandria Alexandria Aitkin Bennettville Browerville Carlos Crosby Deerwood Holmes City Long Prairie Villard	ALXNMNXA ALXNMNXL ATKNMNXA BNVLMNXB BOVLMNXB CARLMNXC CRSBMNXC DRWDMNXD HMCYMNXH LNPRMNXL VLRDMNXV
Upsala Cooperative Telephone Assn.	Full Study Area	Full Study Area
Valley Tel. Co. – Minnesota	Full Study Area	Full Study Area
West Central Telephone Assn.	Full Study Area	Full Study Area
Wilderness Valley Telephone Company, Inc.	Full Study Area	Full Study Area
Wolverton Telephone Company	Full Study Area	Full Study Area

\* - Denotes service area previously redefined. See *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket 96-45, *Report and Order*, FCC 05-46, ¶ 76 n. 213 (rel. March 17,

2005) ("*March 2005 Order*") (redefinition of Citizens Telecom Co., Melrose Tel. Co.; United Telephone Co. of Minnesota); *In the Matter of Cellular Mobile Systems of St. Cloud Petition for FCC Agreement to Redefine the Study Areas of Four Rural Telephone Companies in Minnesota*, CC Docket 96-45, *Petition for Redefinition* (July 2, 2004) (redefinition of Benton Coop. Tel. Co.; Citizens Telecom Co.); *Minnesota Public Utilities Commission for Agreement to Redefine the Service Area of Frontier Communications of Minnesota, Inc.* (November 29, 2000) (redefinition of Frontier Communications of Minnesota, Inc.); *Petition of RCC Minnesota, Inc. and Wireless Alliance, LLC for Redefinition of Rural Telephone Company Service Areas*, CC Docket No. 96-45, *Petition for Redefinition* (August 27, 2004) (redefinition of CenturyTel of Minnesota, Inc.; Loretel Systems, Inc.; Mid-State Tel. Co.; Federated Tel. Coop.; and Twin Valley – Ulen Tel. Co. Inc.).

**ATTACHMENT 2**

**Rural Telephone Company Wire Centers for Which ACC is Requesting Conditional ETC  
Designation Subject to Redefinition of the Service Area Requirement**

<b>Rural Telephone Company</b>	<b>Wire Center Name</b>	<b>CLLI Code</b>
Paul Bunyan Rural Tel. Coop.	Becida	BECDMNXB
	Deer River	DRRVMNXD
	Inger Wirt	INGRMNXI
	LaPorte	LAPTMNXL
	Northome	NOMEMNXN
	Solway	SLWYMNXS
	Squaw Lake	SQLKMNXS
	Turtle River	TRRVMNXT
Red River Rural Telephone Assoc.	Eabercromb	ABRCNDXA
	East Fairmount	FAMTNDBC

**ATTACHMENT 3**

**Affidavit Showing ACC Meets All Requirements for Designation as an ETC**

**BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION**

LeRoy Koppendraye  
Kenneth Nickolai  
Marshall Johnson  
Phyllis A. Reha  
Thomas Pugh

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of AMERICAN CELLULAR ) Docket No. \_\_\_\_\_  
CORPORATION Petition for Designation as an )  
Eligible Telecommunications Carrier and )  
Redefinition of Rural Telephone Company Service )  
Area Requirement )

**CERTIFICATION OF THOMAS A. COATES**

I, the undersigned, Thomas A. Coates, do hereby verify as follows:

1. I serve as Vice President for Corporate Development for American Cellular Corporation.

2. This Certification is submitted in support of ACC's Petition for Designation as an Eligible Telecommunications Carrier and Petition for Redefinition of Rural Telephone Company Service Area Requirement ("Petition").

3. I further declare that I have reviewed the Petition and that the facts stated therein, of which I have personal knowledge, are true and correct to the best of my knowledge and belief.

4. I certify that the foregoing is true and correct to the best of my knowledge, information and belief.

Date: June 30, 2005

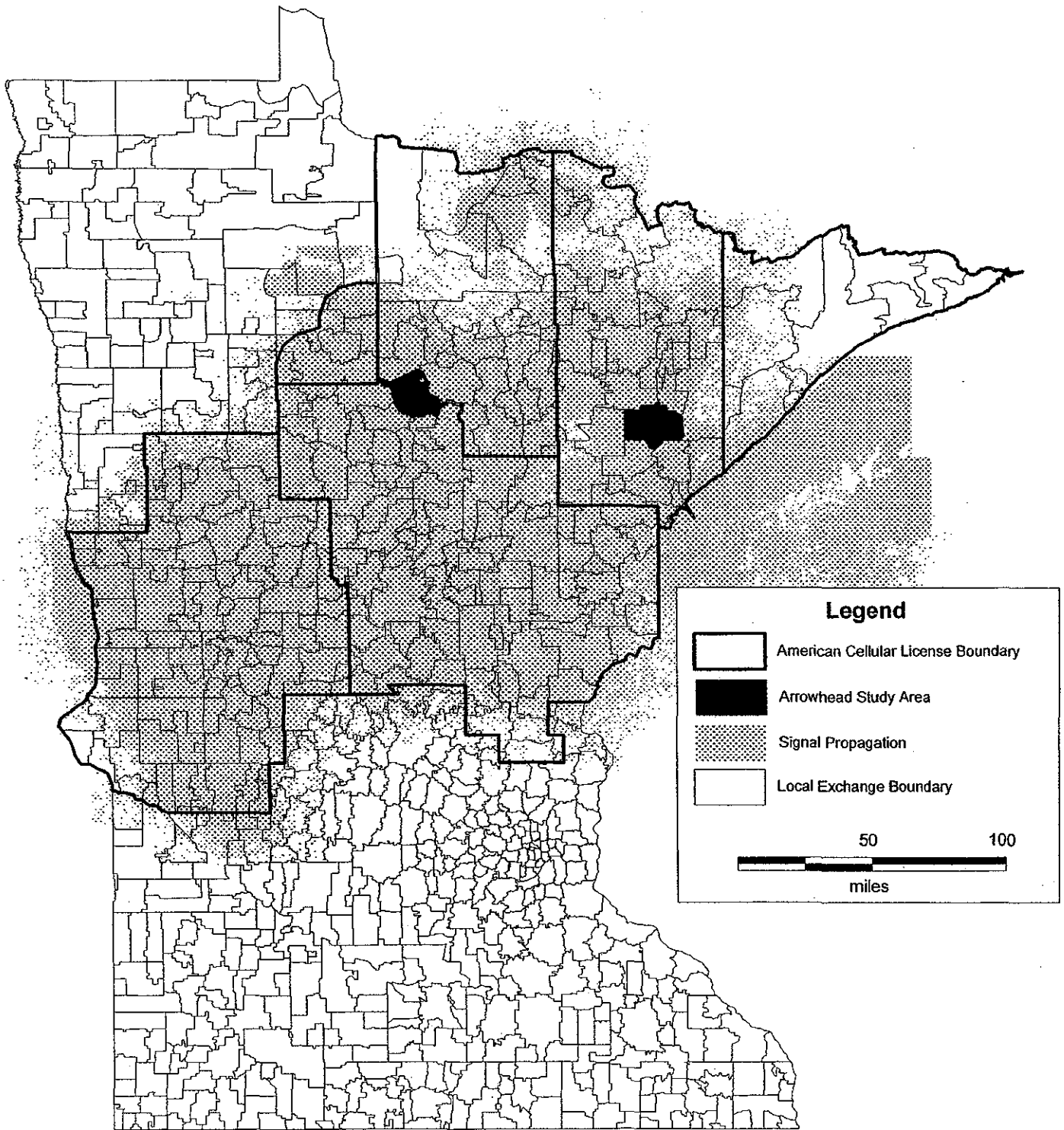
  
\_\_\_\_\_  
Thomas A. Coates

**ATTACHMENT 4**

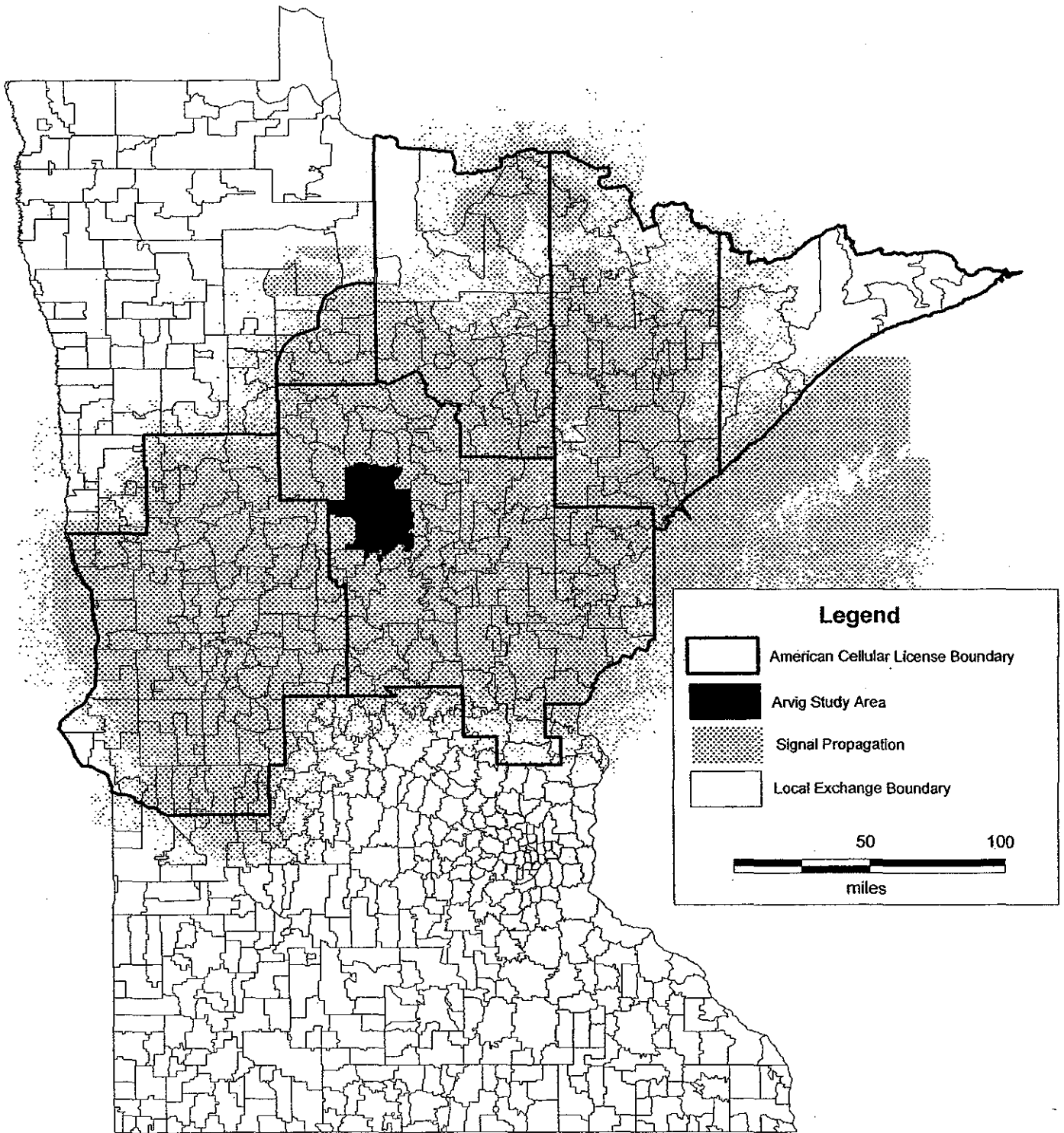
**ACC's Service Coverage Maps for the Requested ETC Service Areas**



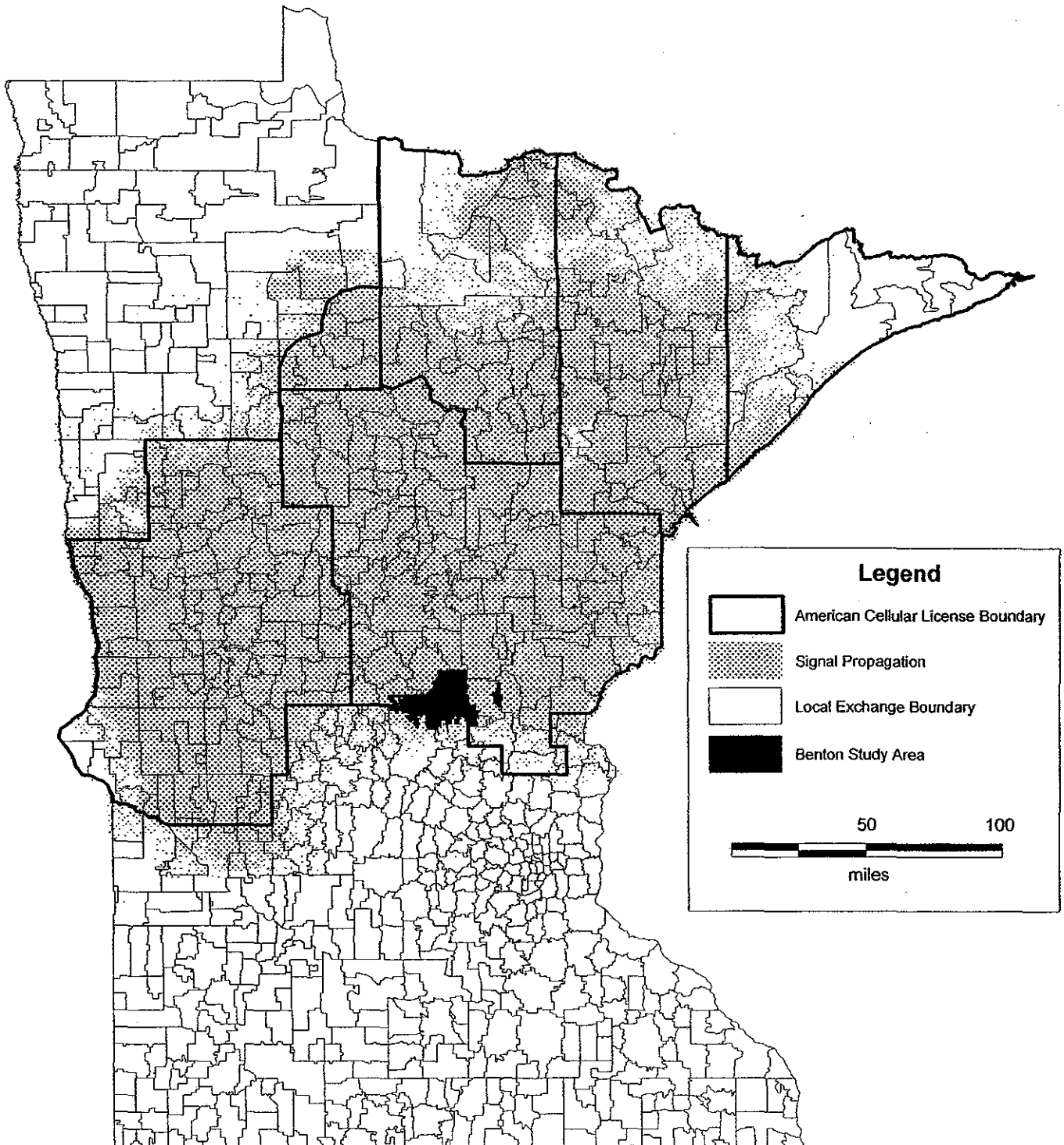
Arrowhead Communications Corporation Study Area  
and American Cellular Corporation's Minnesota Licensed Areas



Arvig Telephone Company Study Area  
and American Cellular Corporation's Minnesota Licensed Areas



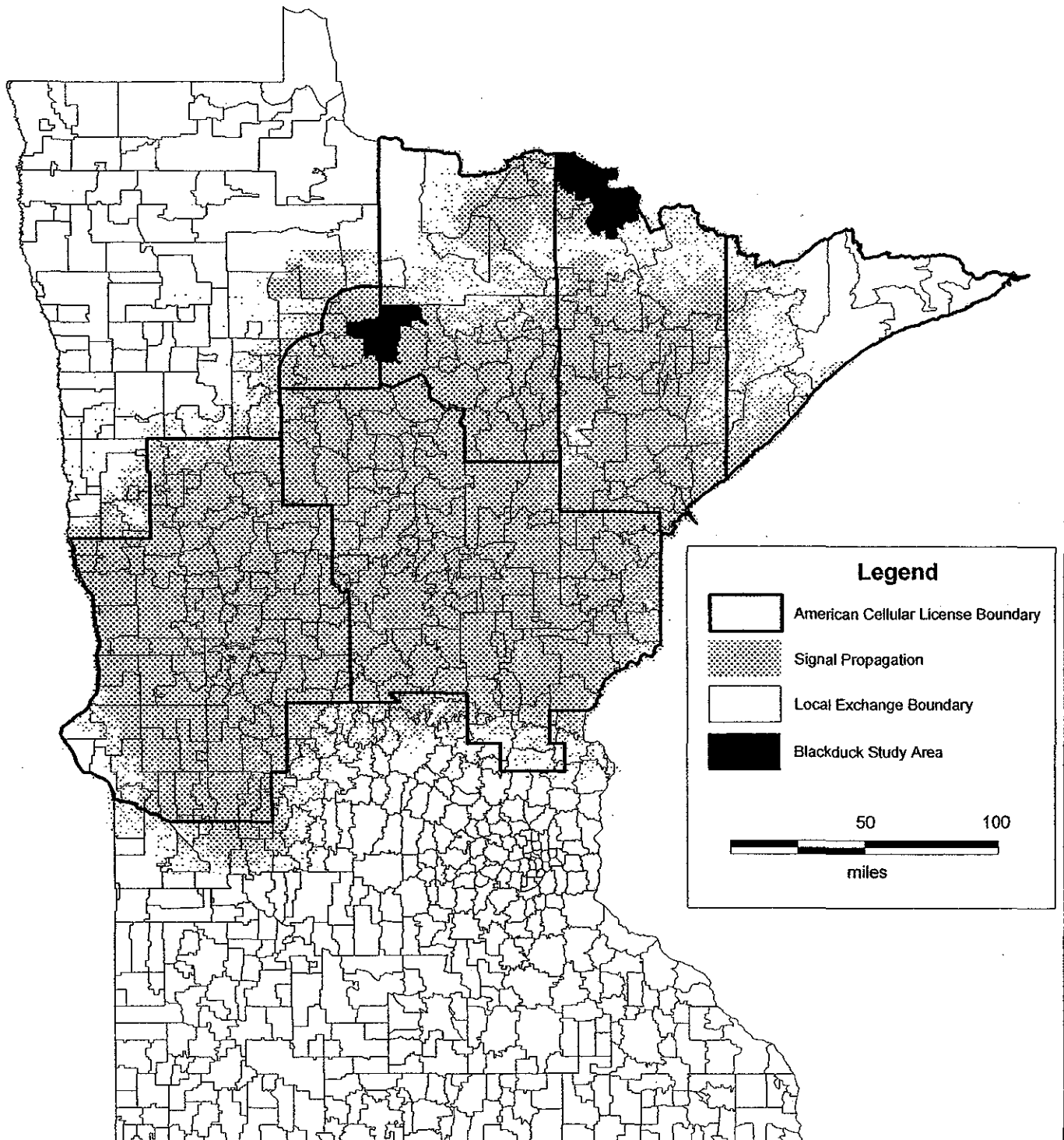
**Benton Cooperative Telephone Company Study Area  
and American Cellular Corporation's Minnesota Licensed Areas**



**DOBSON**  
COMMUNICATIONS CORPORATION



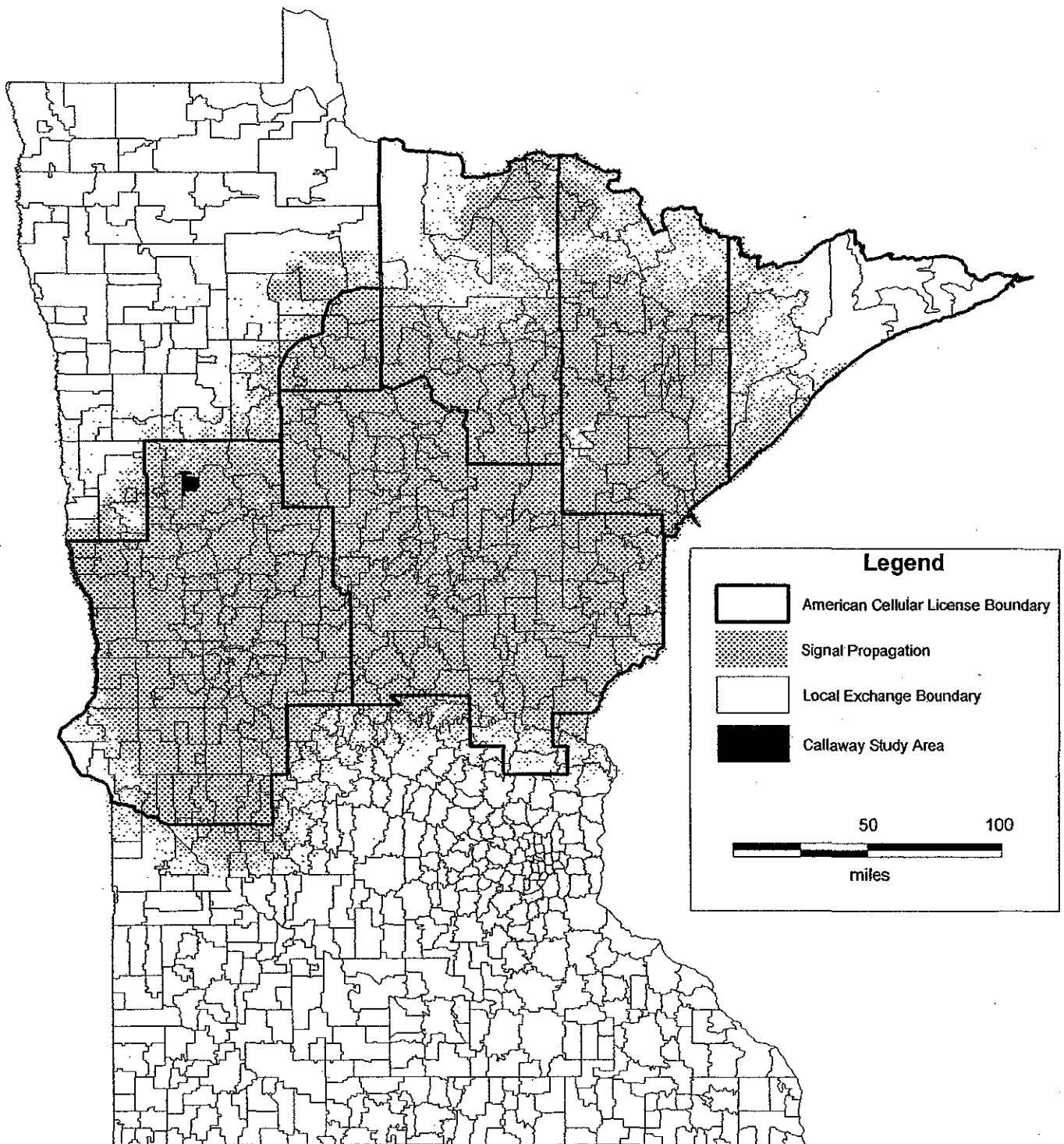
**Blackduck Telephone Company Study Area  
and American Cellular Corporation's Minnesota Licensed Areas**



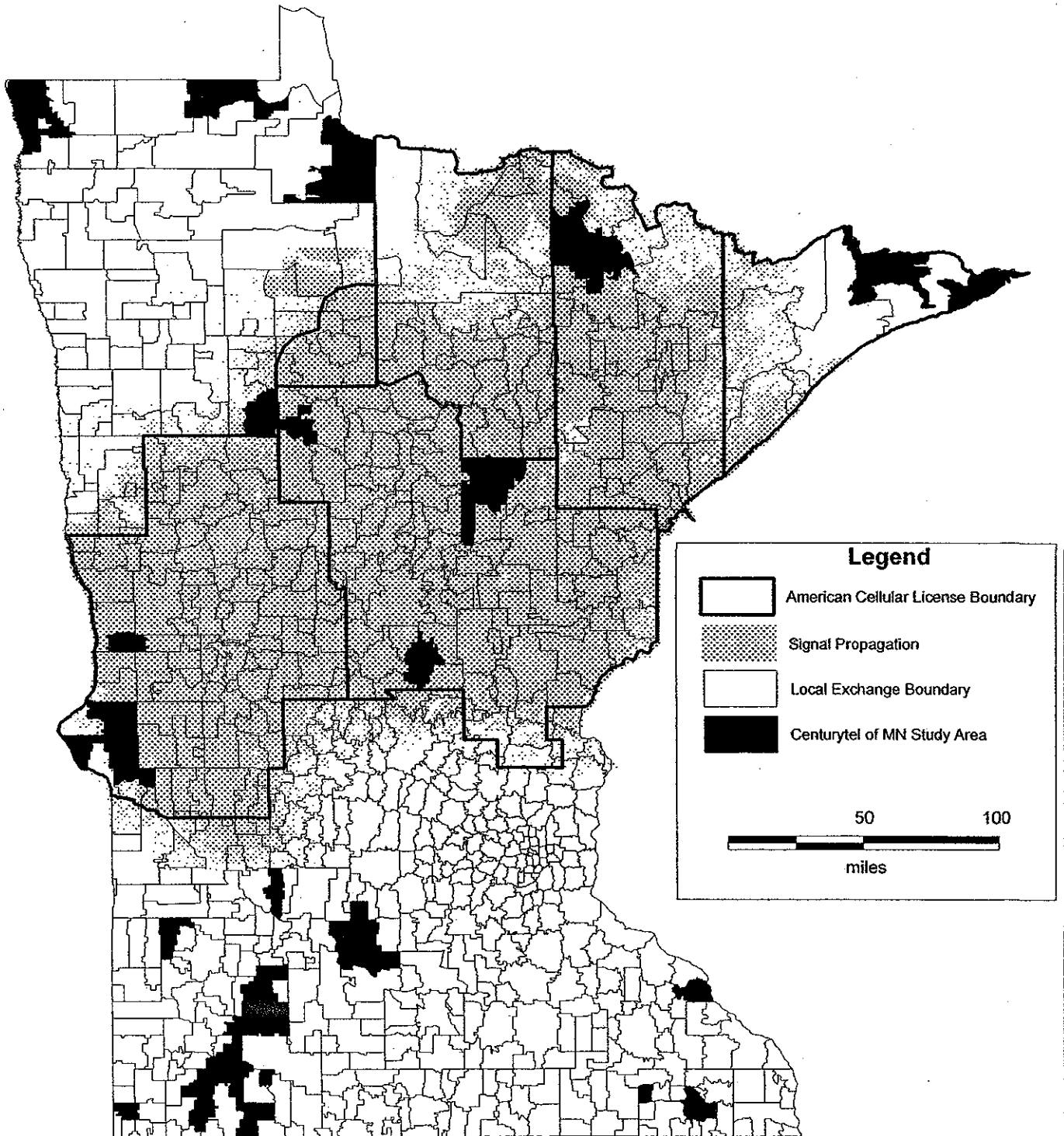
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COMMUNICATIONS CORPORATION



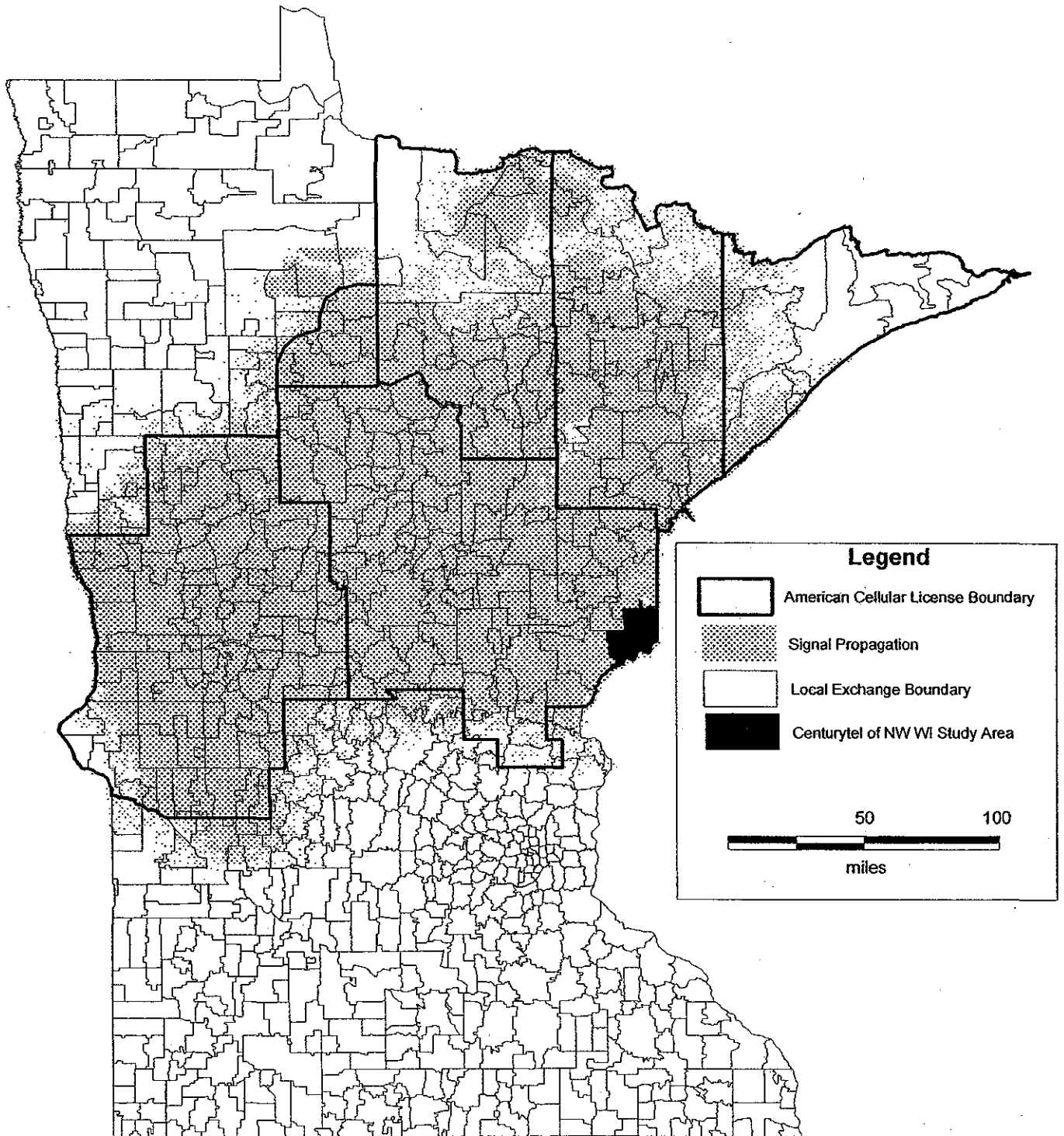
**Callaway Telephone Company Study Area  
and American Cellular Corporation's Minnesota Licensed Areas**



**Centurytel of Minnesota, Inc. Study Area  
and American Cellular Corporation's Minnesota Licensed Areas**



**Centurytel of Northwest Wisconsin, Inc. Study Area  
and American Cellular Corporation's Minnesota Licensed Areas**

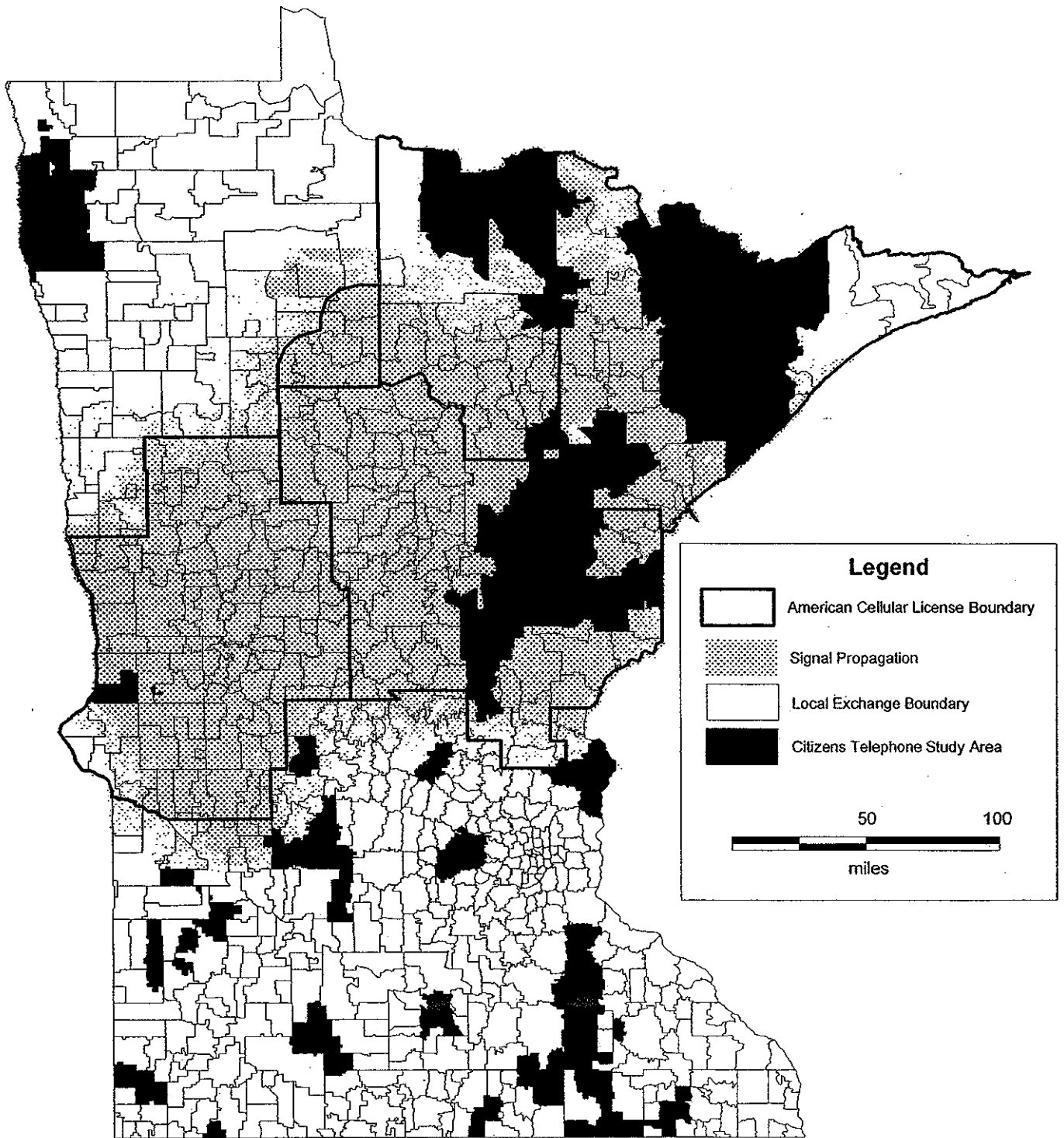


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COMMUNICATIONS CORPORATION





**Citizens Telephone Company of MN (dba Frontier Communications of MN) Study Area  
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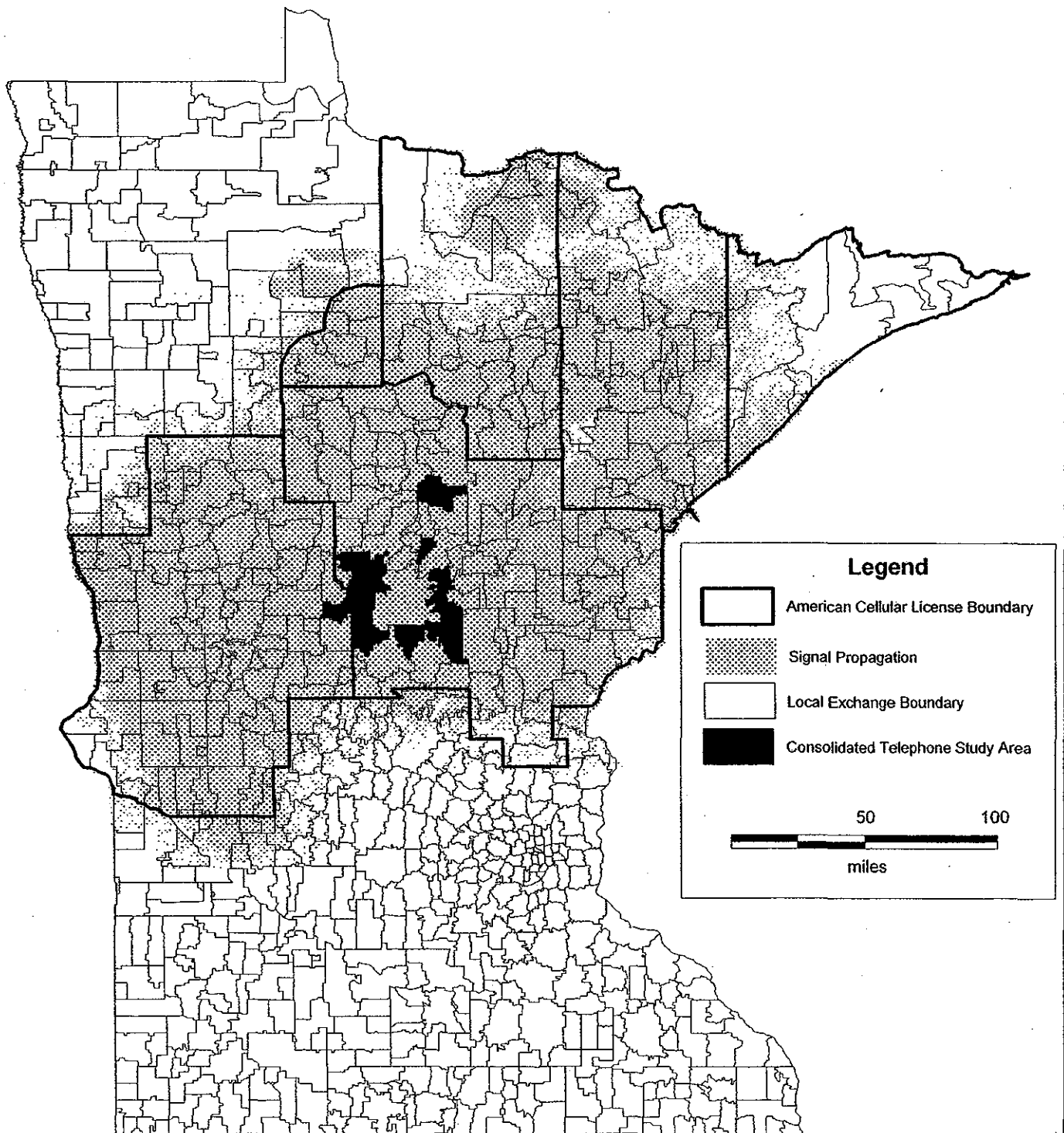


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COMMUNICATIONS CORPORATION





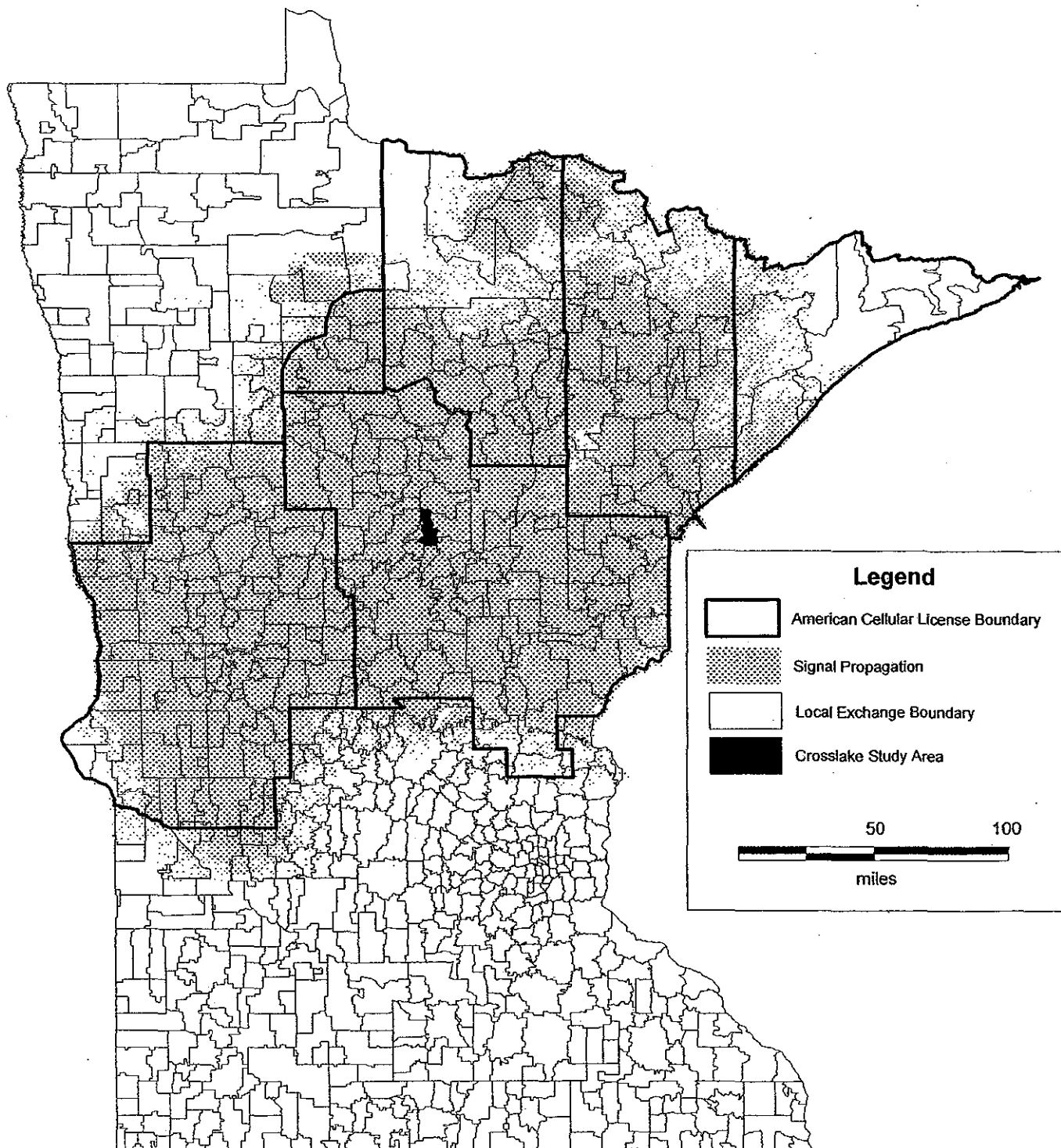
**Consolidated Telephone Company Study Area  
and American Cellular Corporation's Minnesota Licensed Areas**



**DOBSON**  
COMMUNICATIONS CORPORATION



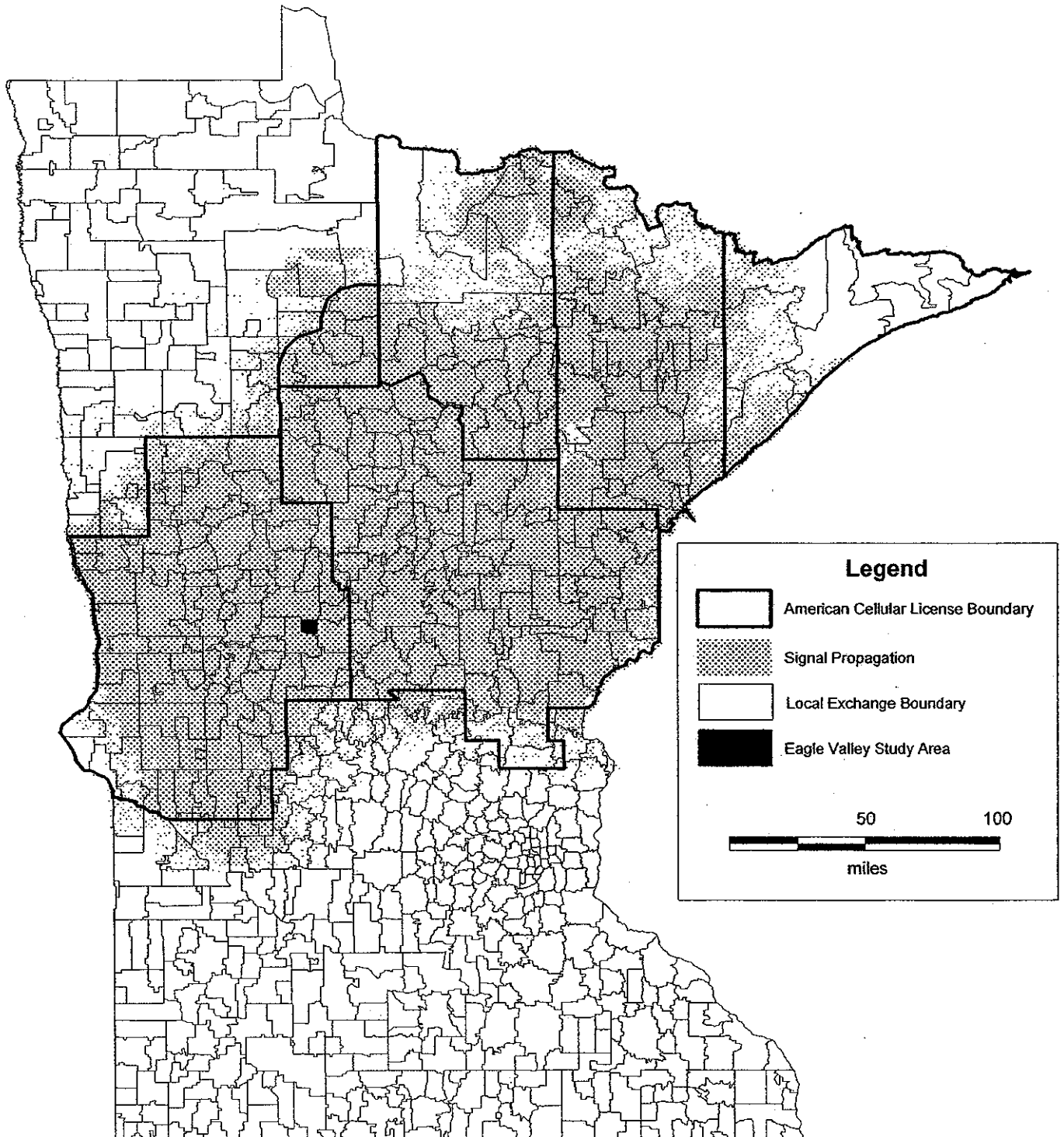
**Crosslake Telephone Company Study Area  
and American Cellular Corporation's Minnesota Licensed Areas**



**DOBSON**  
COMMUNICATIONS CORPORATION



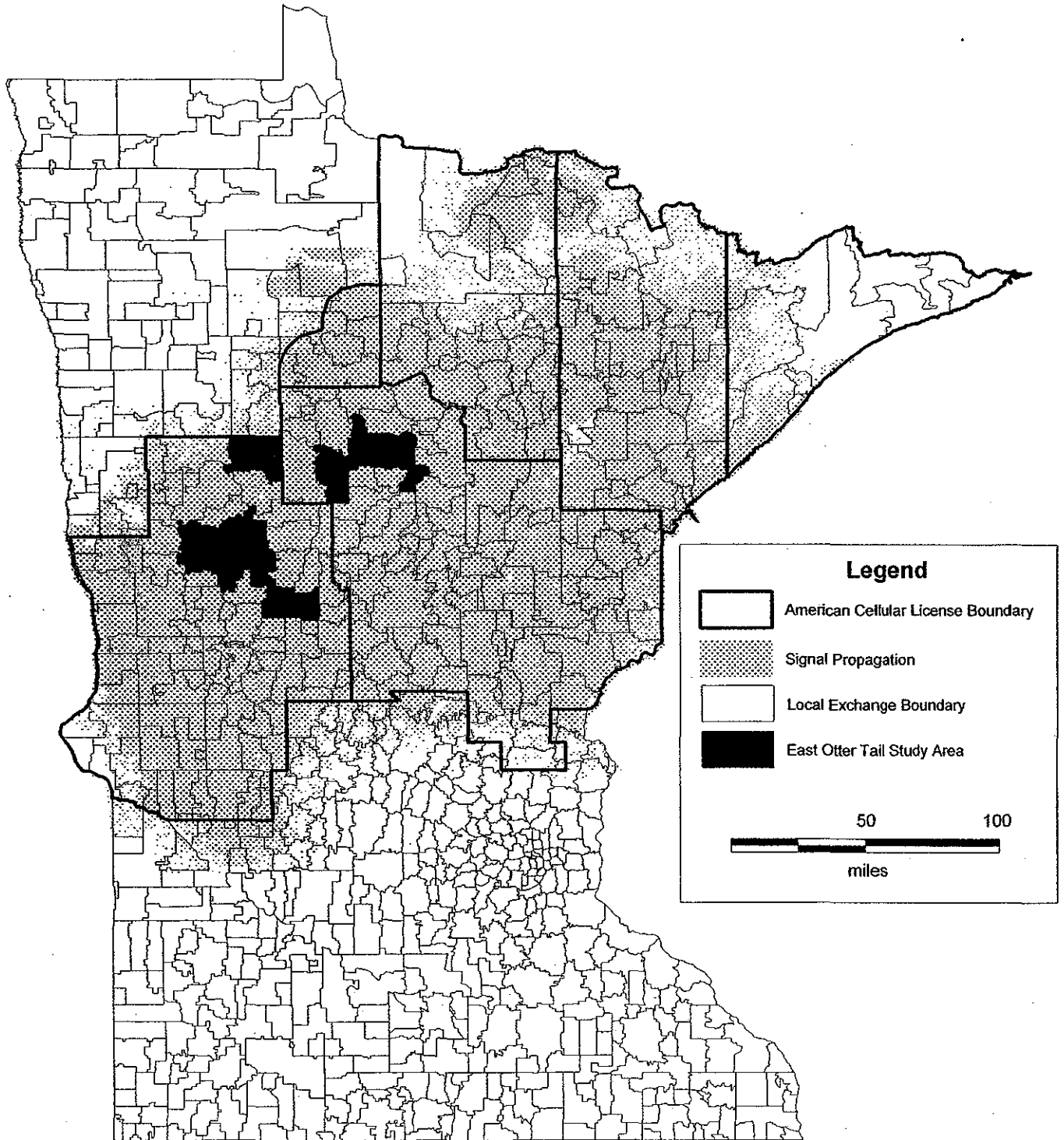
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and American Cellular Corporation's Minnesota Licensed Areas**



**DOBSON**  
COMMUNICATIONS CORPORATION



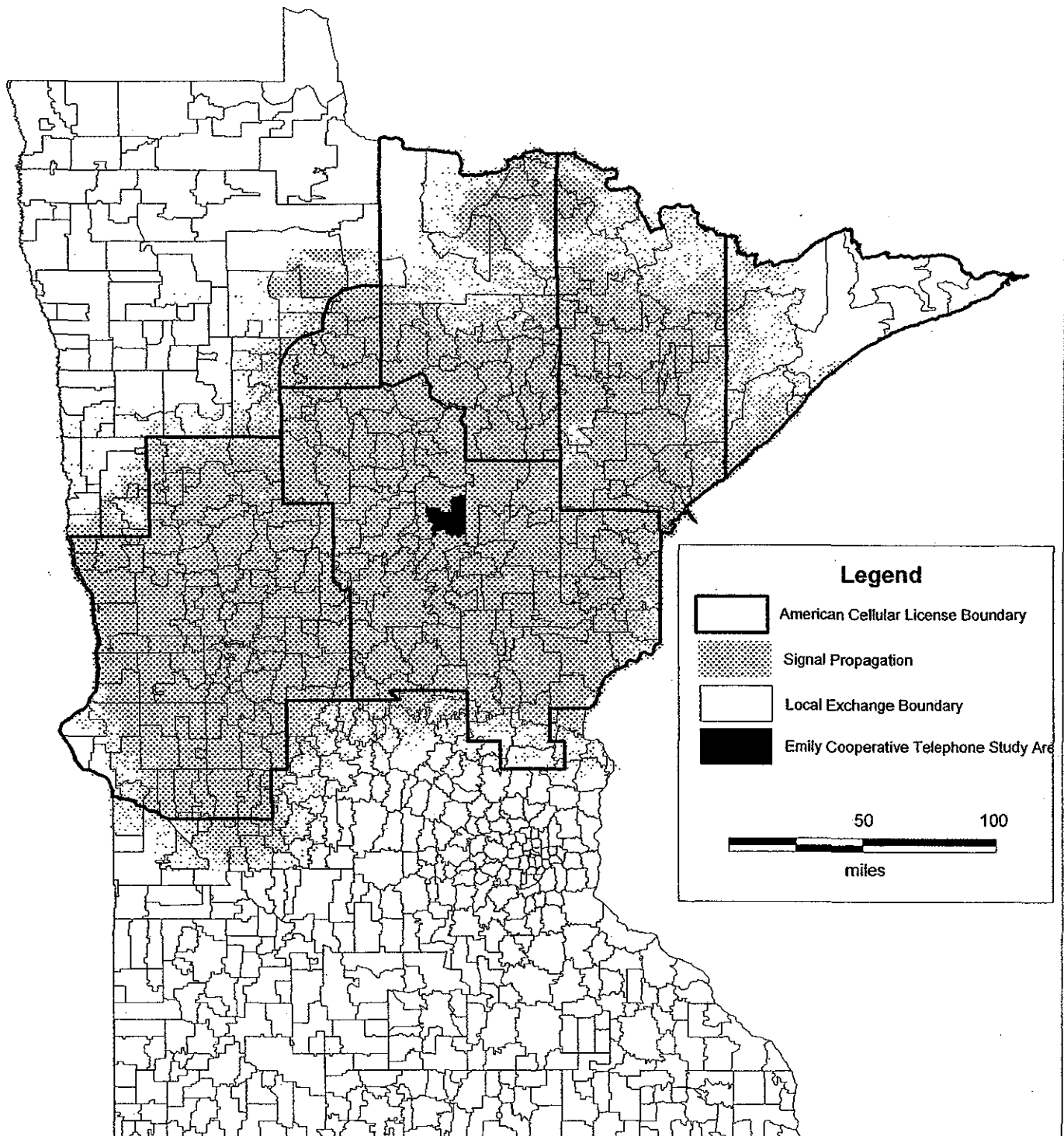
**East Otter Tail Telephone Company Study Area  
and American Cellular Corporation's Minnesota Licensed Areas**



**DOBSON**  
COMMUNICATIONS CORPORATION



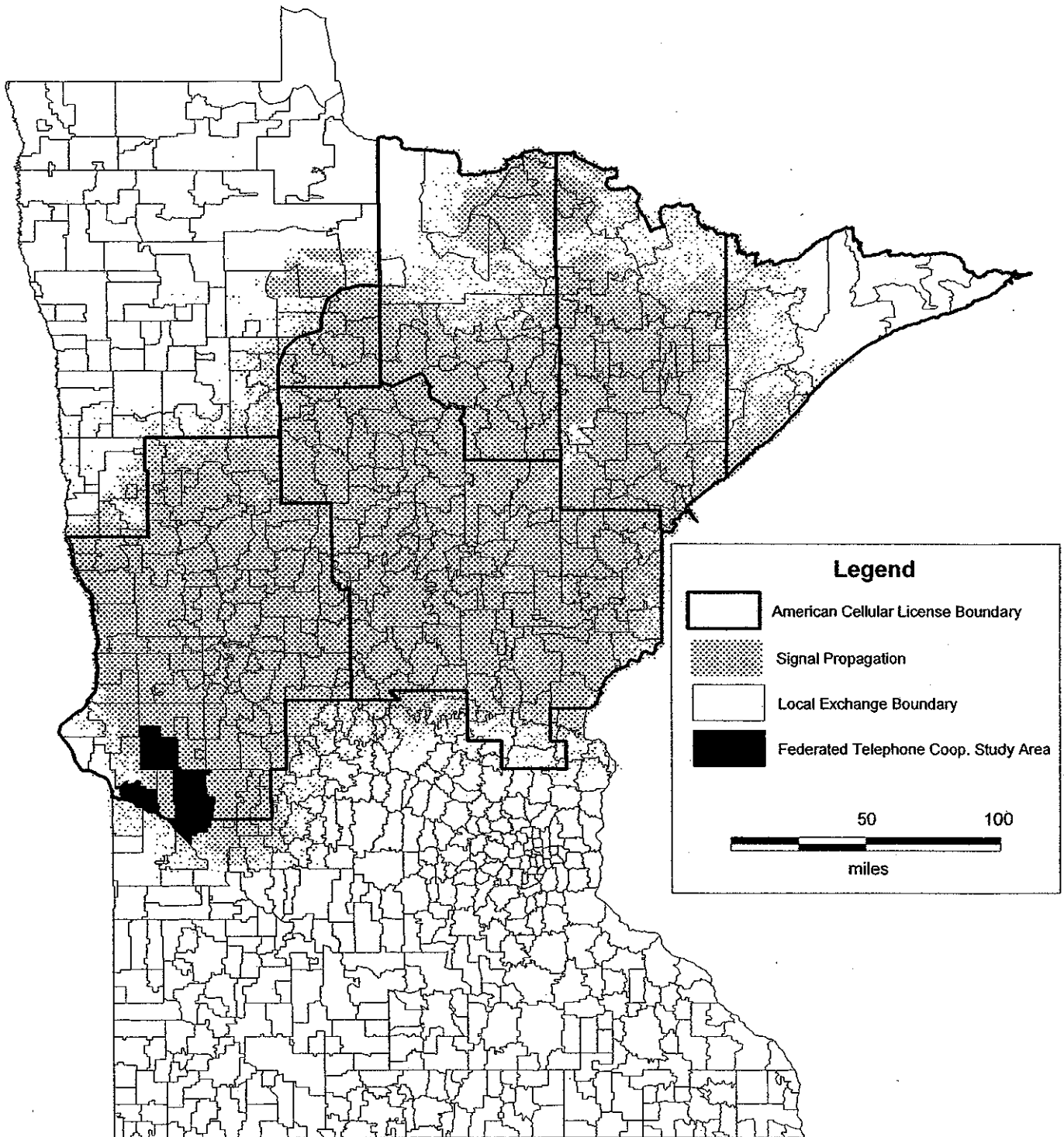
**Emily Cooperative Telephone Company Study Area  
and American Cellular Corporation's Minnesota Licensed Areas**



**DOBSON**  
COMMUNICATIONS CORPORATION



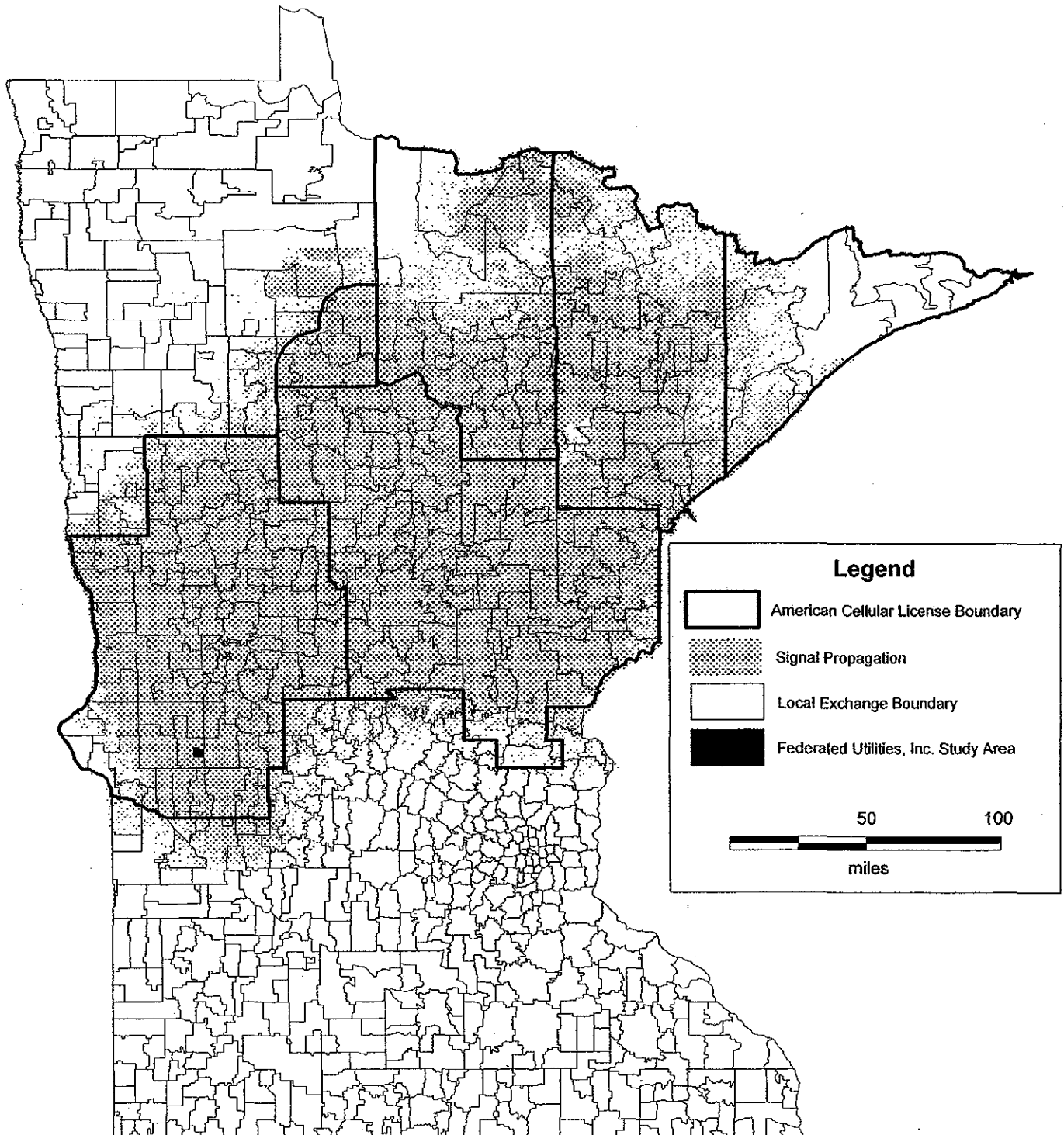
**Federated Telephone Cooperative Study Area  
and American Cellular Corporation's Minnesota Licensed Areas**



**DOBSON**  
COMMUNICATIONS CORPORATION



**Federated Utilities, Inc. (dba Hancock Telephone Company) Study Area  
and American Cellular Corporation's Minnesota Licensed Areas**

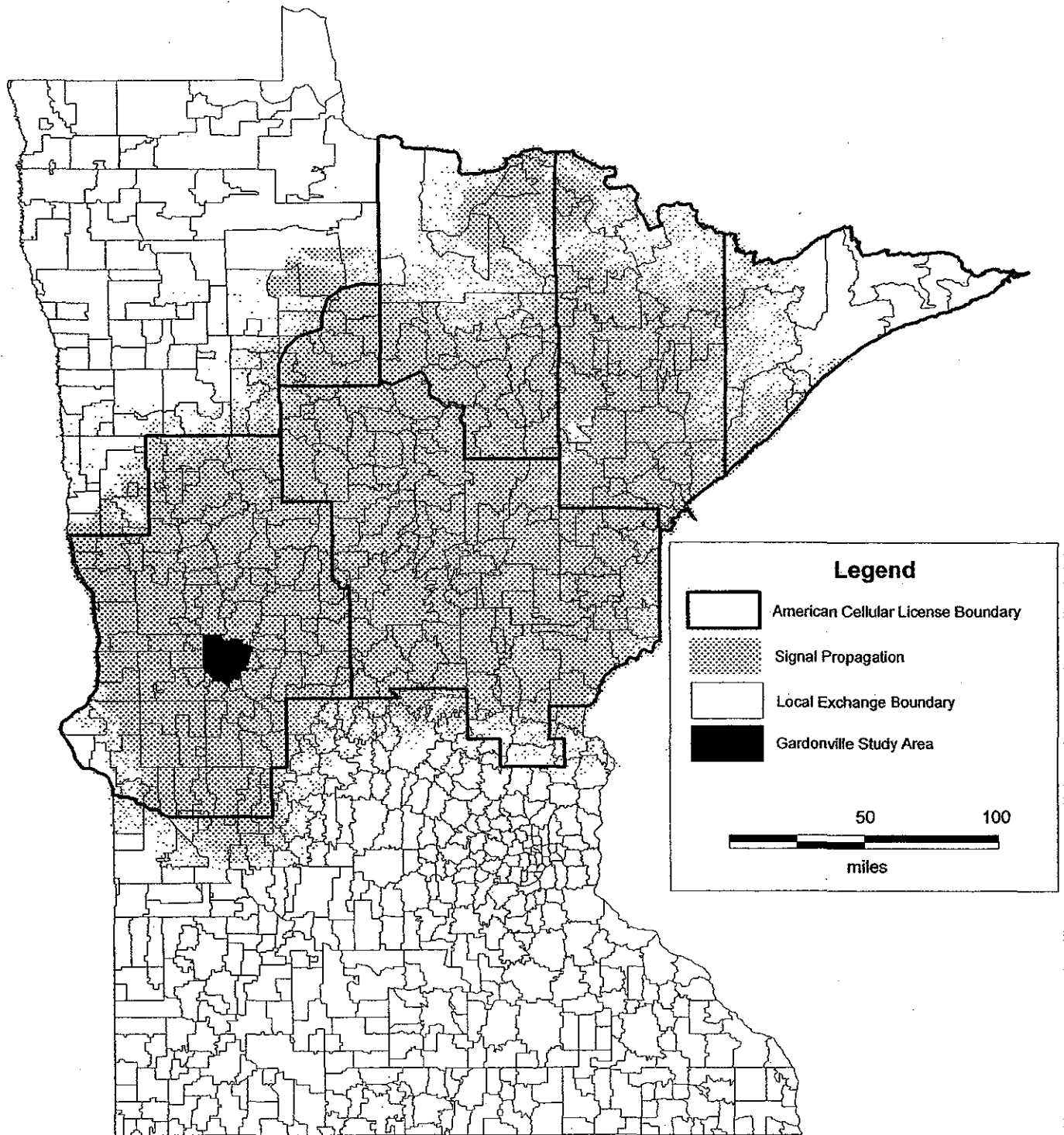


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COMMUNICATIONS CORPORATION





**Gardonville Cooperative Telephone Association Study Area  
and American Cellular Corporation's Minnesota Licensed Areas**

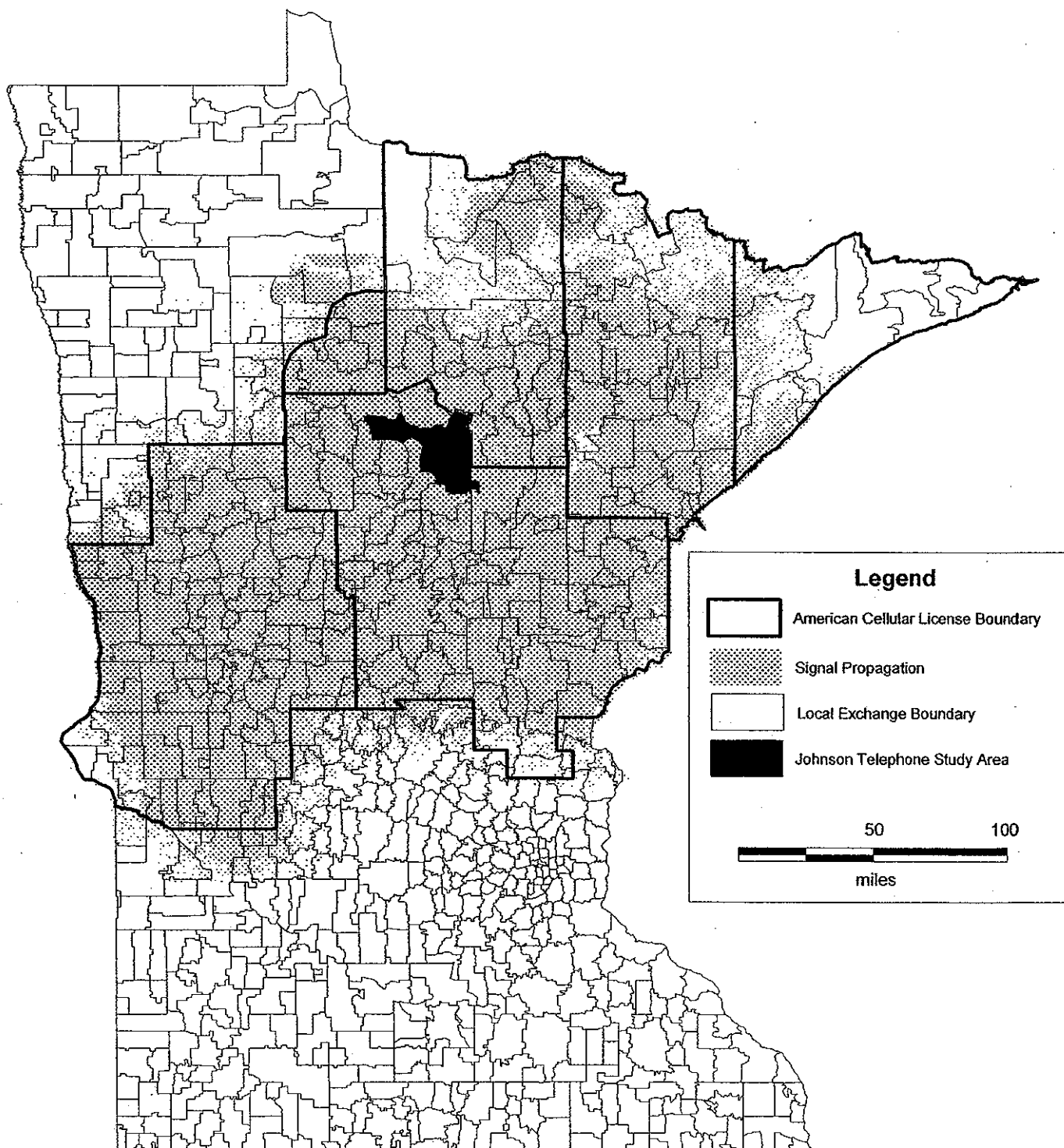


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COMMUNICATIONS CORPORATION





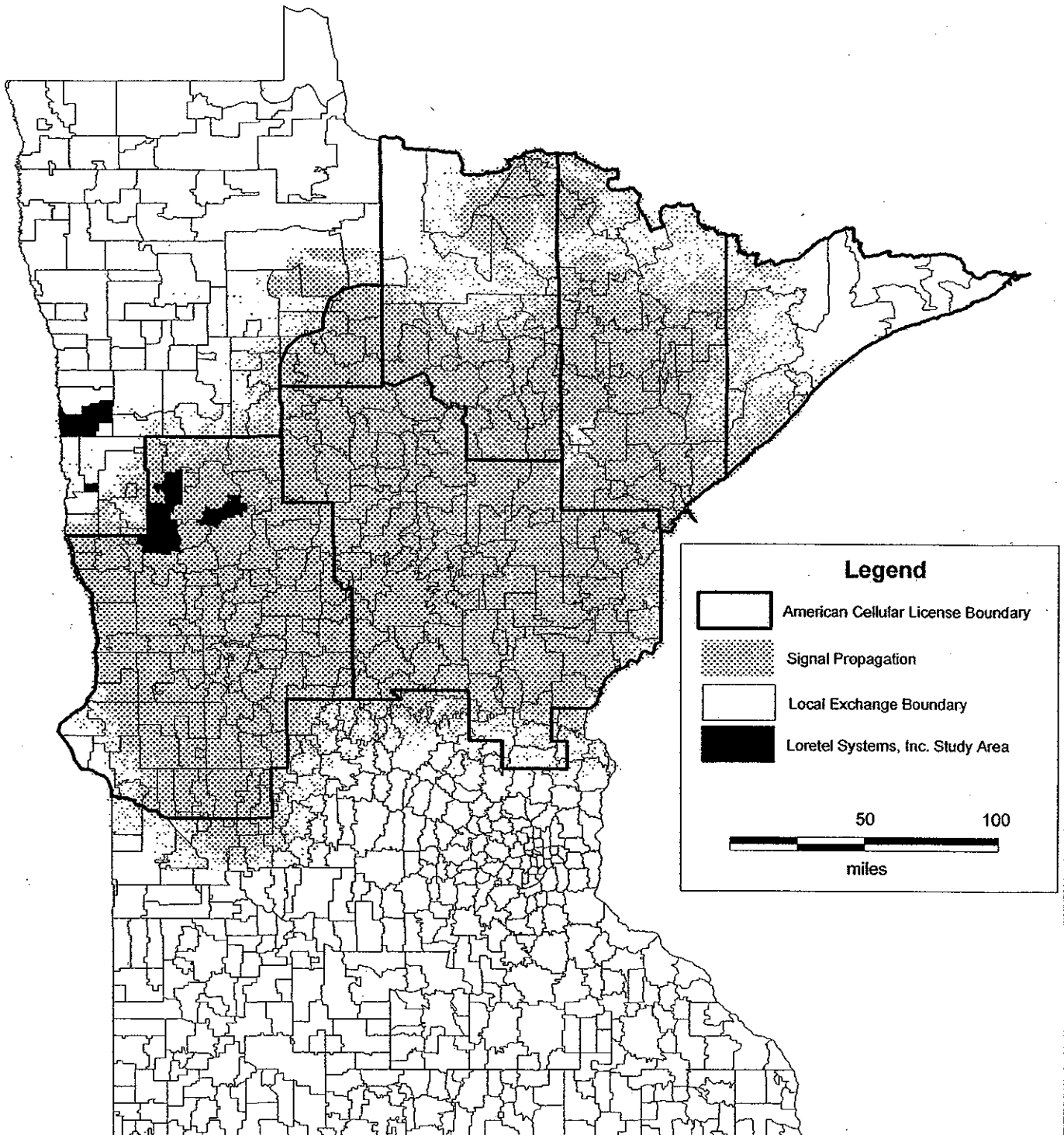
**Johnson Telephone Company Study Area  
and American Cellular Corporation's Minnesota Licensed Areas**



**DOBSON**  
COMMUNICATIONS CORPORATION



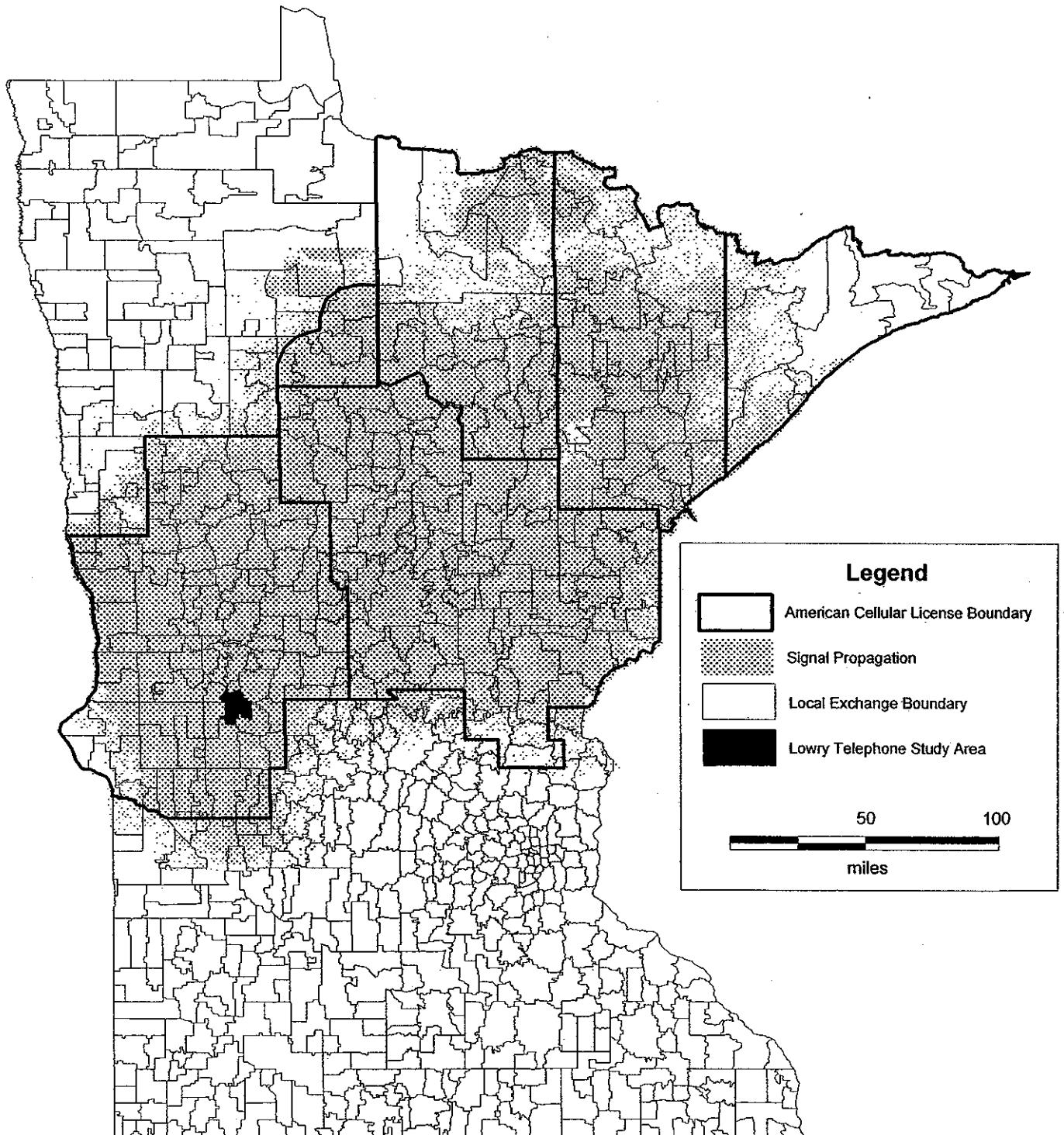
**Loretel Systems, Inc. Study Area  
and American Cellular Corporation's Minnesota Licensed Areas**



**DOBSON**  
COMMUNICATIONS CORPORATION



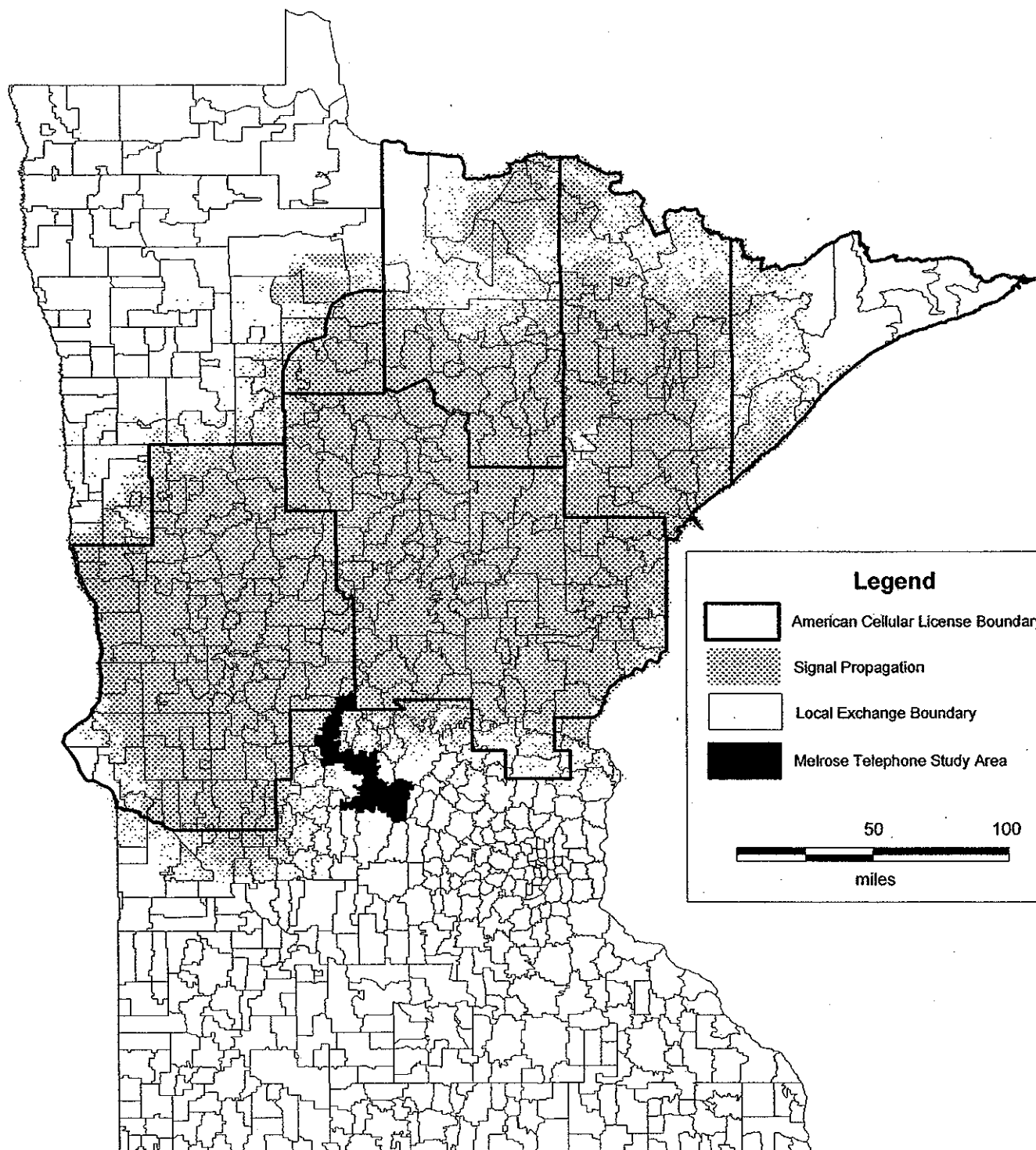
**Lowry Telephone Company, LLC Study Area  
and American Cellular Corporation's Minnesota Licensed Areas**



**DOBSON**  
COMMUNICATIONS CORPORATION



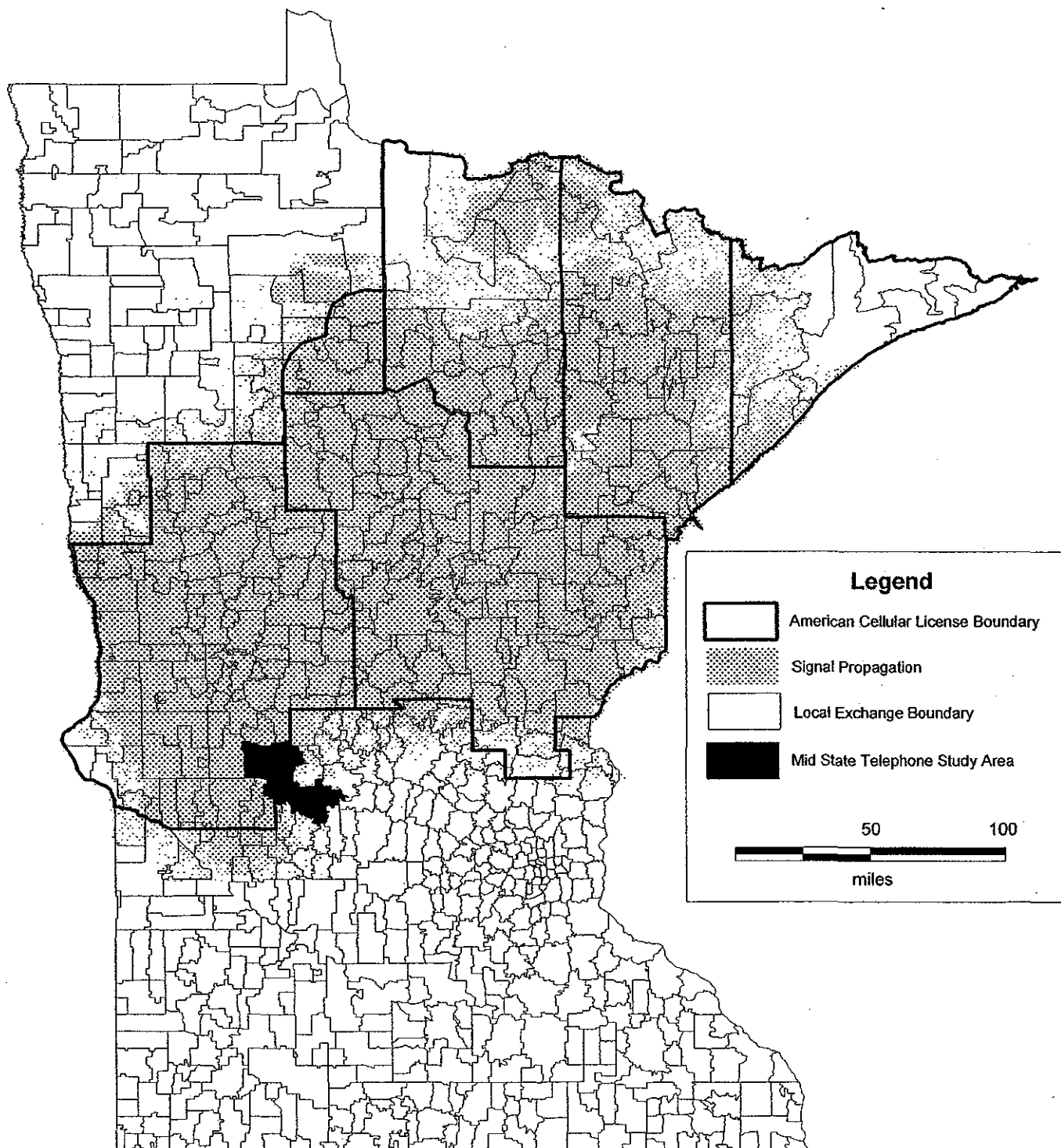
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and American Cellular Corporation's Minnesota Licensed Areas**



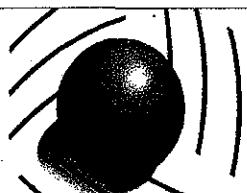
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COMMUNICATIONS CORPORATION



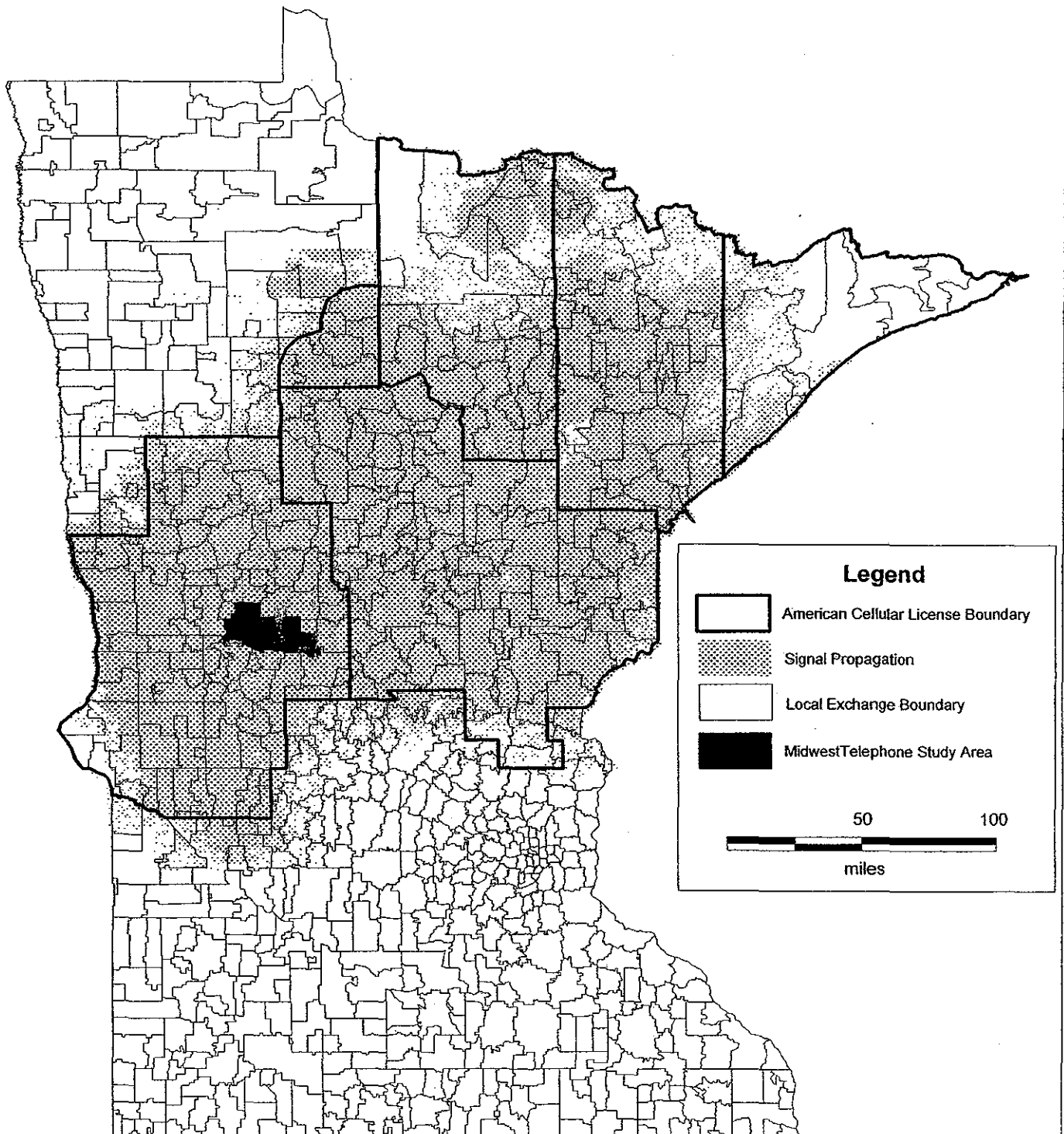
**Mid State Telephone Company Study Area  
and American Cellular Corporation's Minnesota Licensed Areas**



**DOBSON**  
COMMUNICATIONS CORPORATION



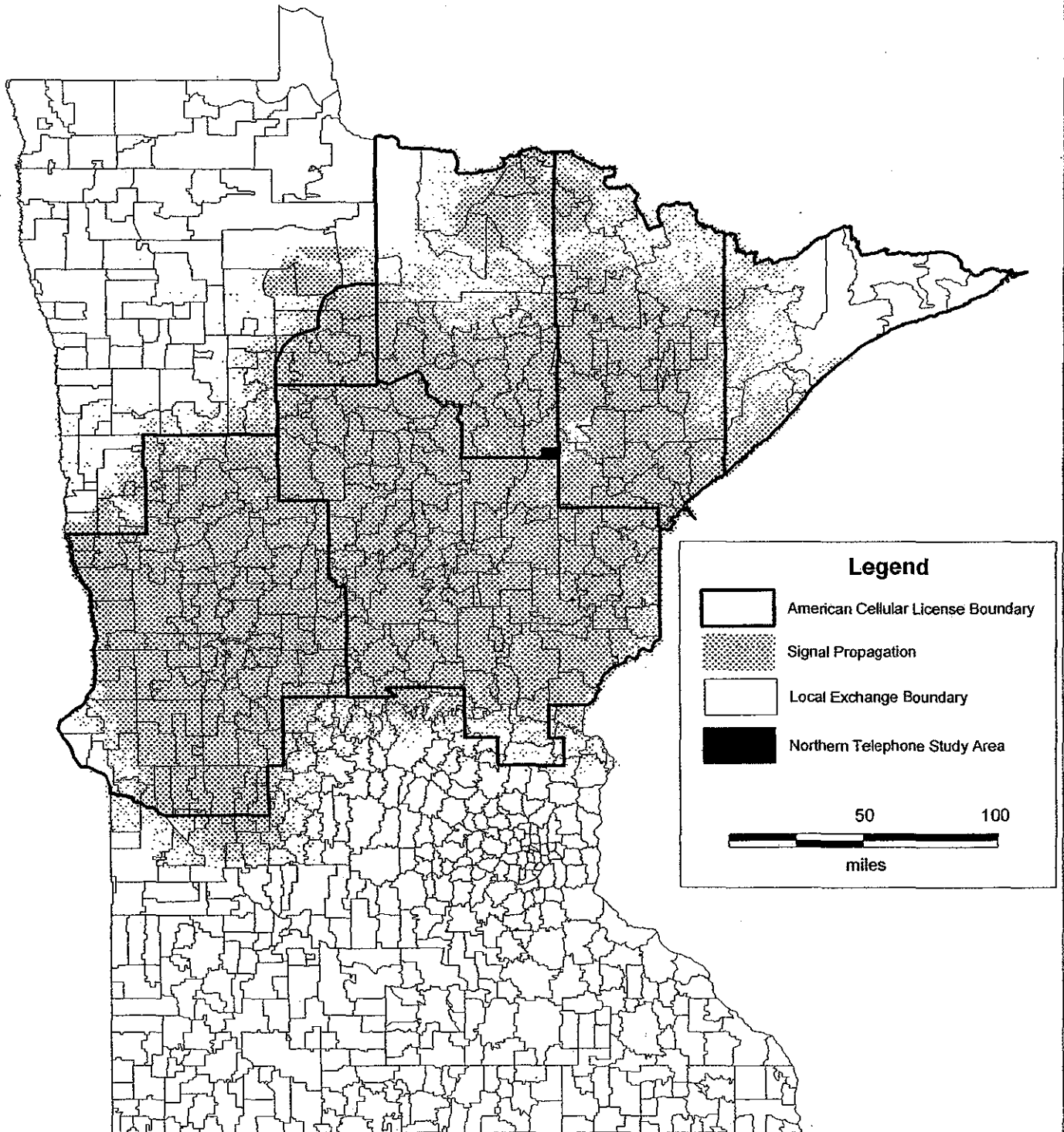
**Midwest Telephone Company Study Area  
and American Cellular Corporation's Minnesota Licensed Areas**



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COMMUNICATIONS CORPORATION

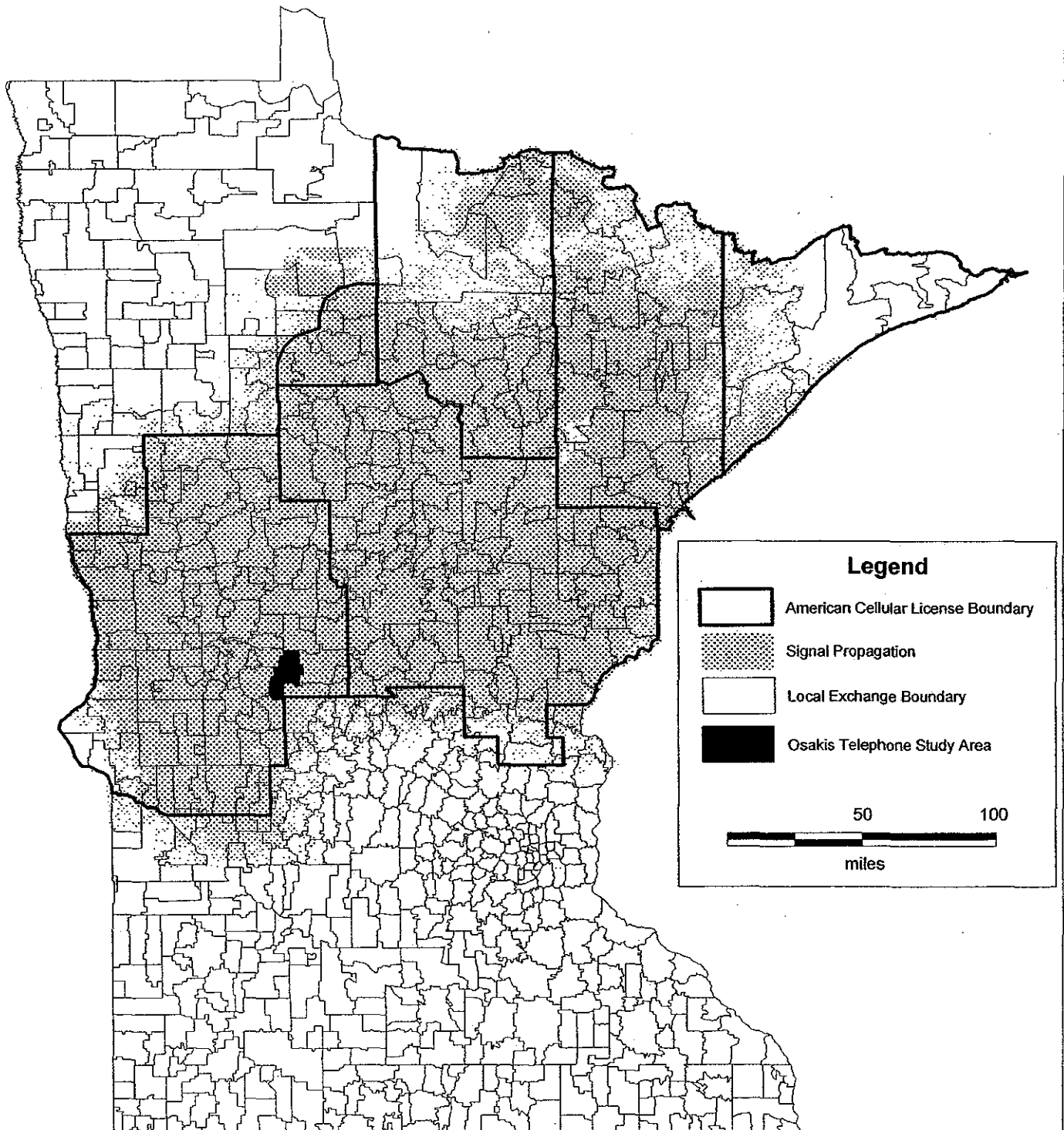


**NorthernTelephone Company Study Area  
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**Osakis Telephone Company Study Area  
and American Cellular Corporation's Minnesota Licensed Areas**

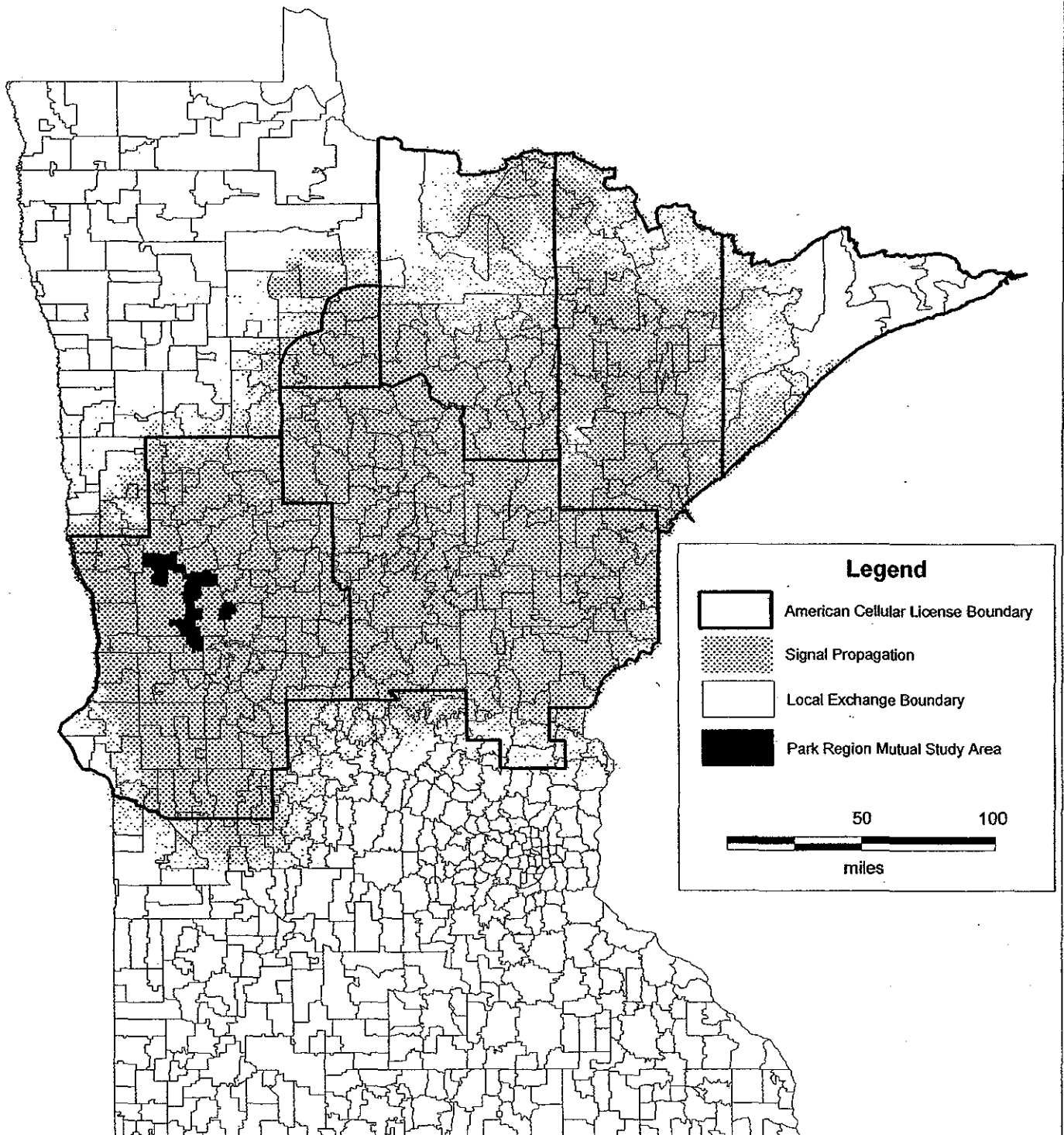


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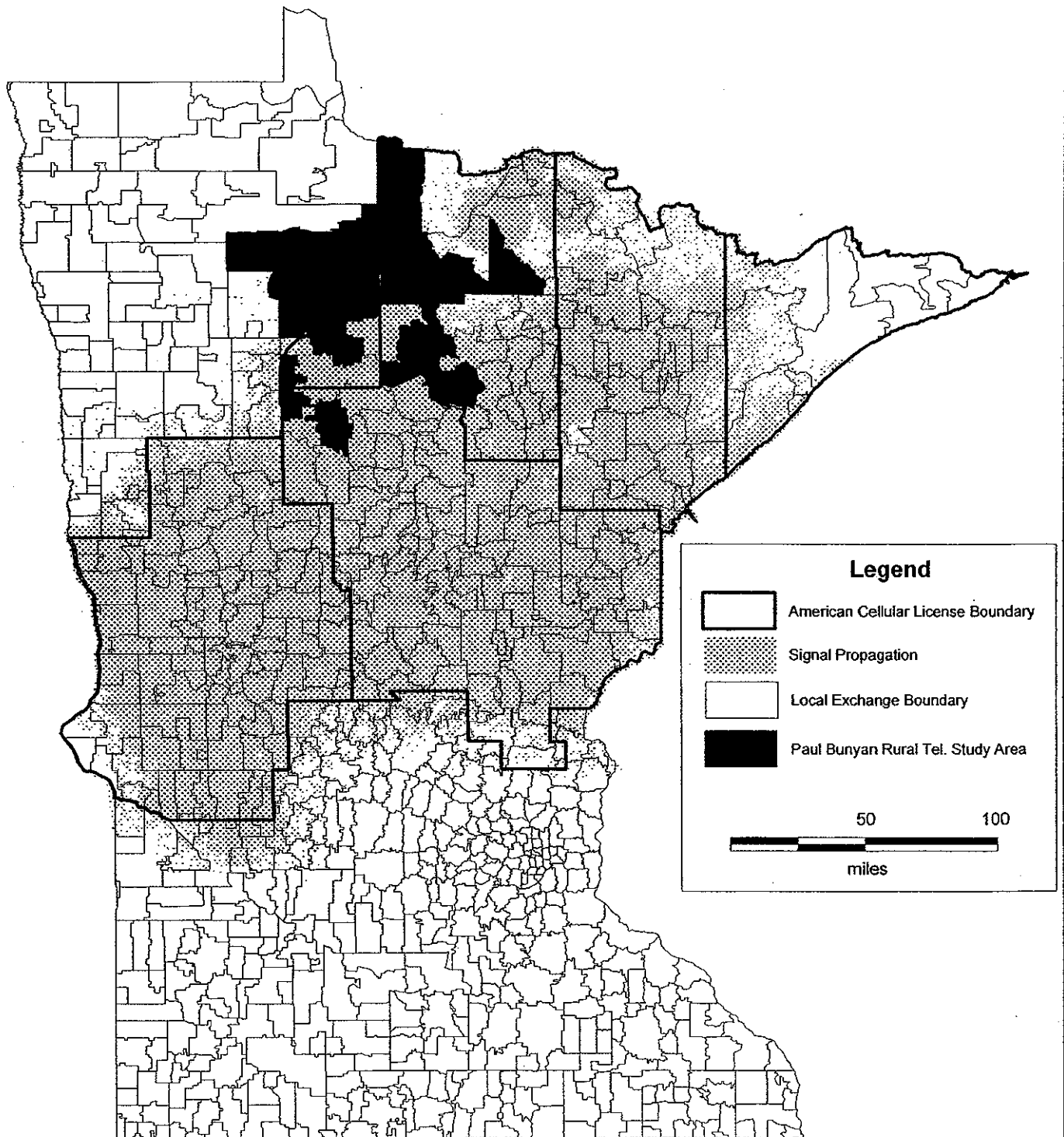
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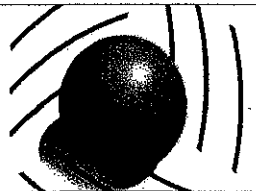
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COMMUNICATIONS CORPORATION



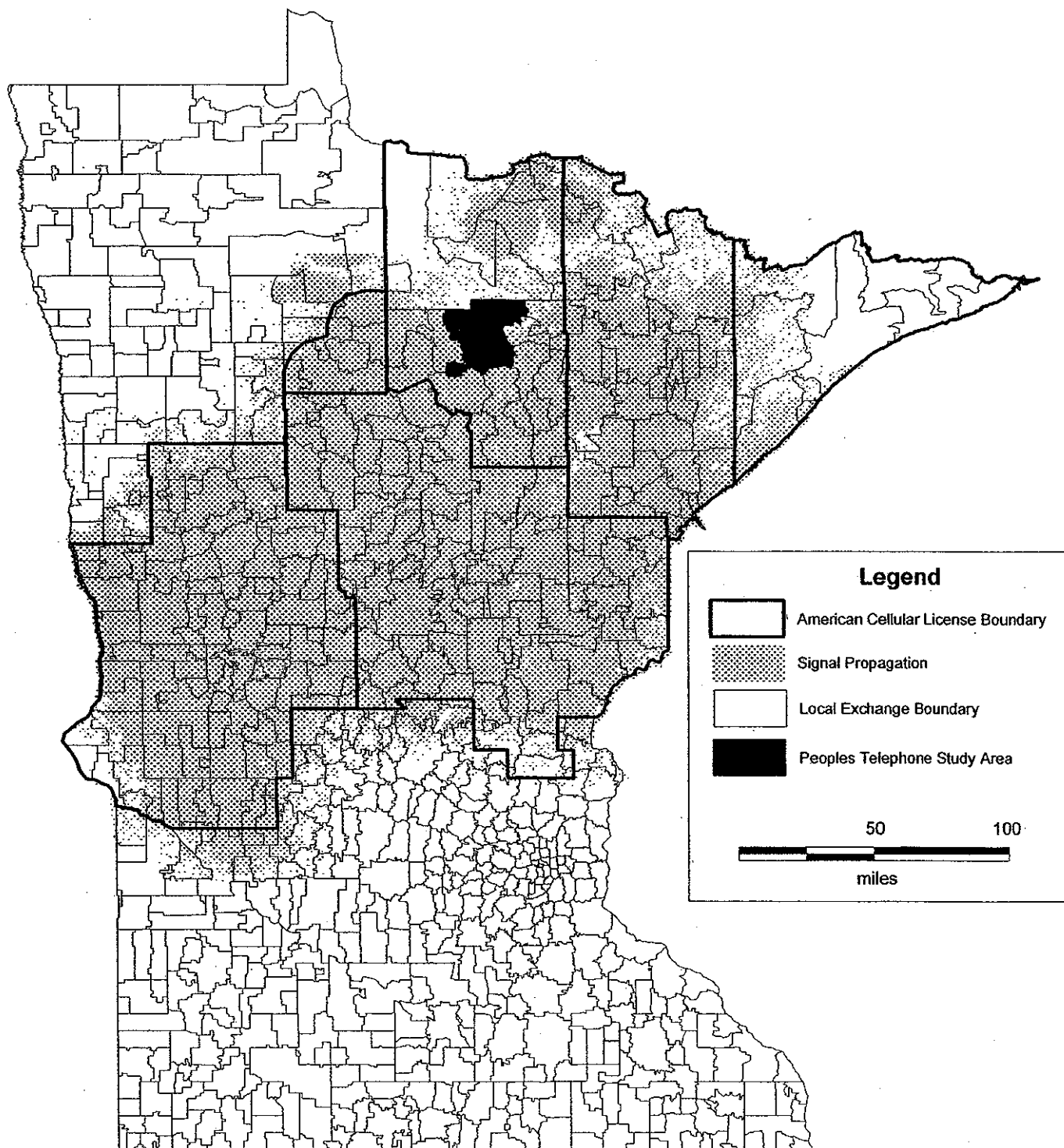
**Paul Bunyan Rural Telephone Company Study Area  
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COMMUNICATIONS CORPORATION



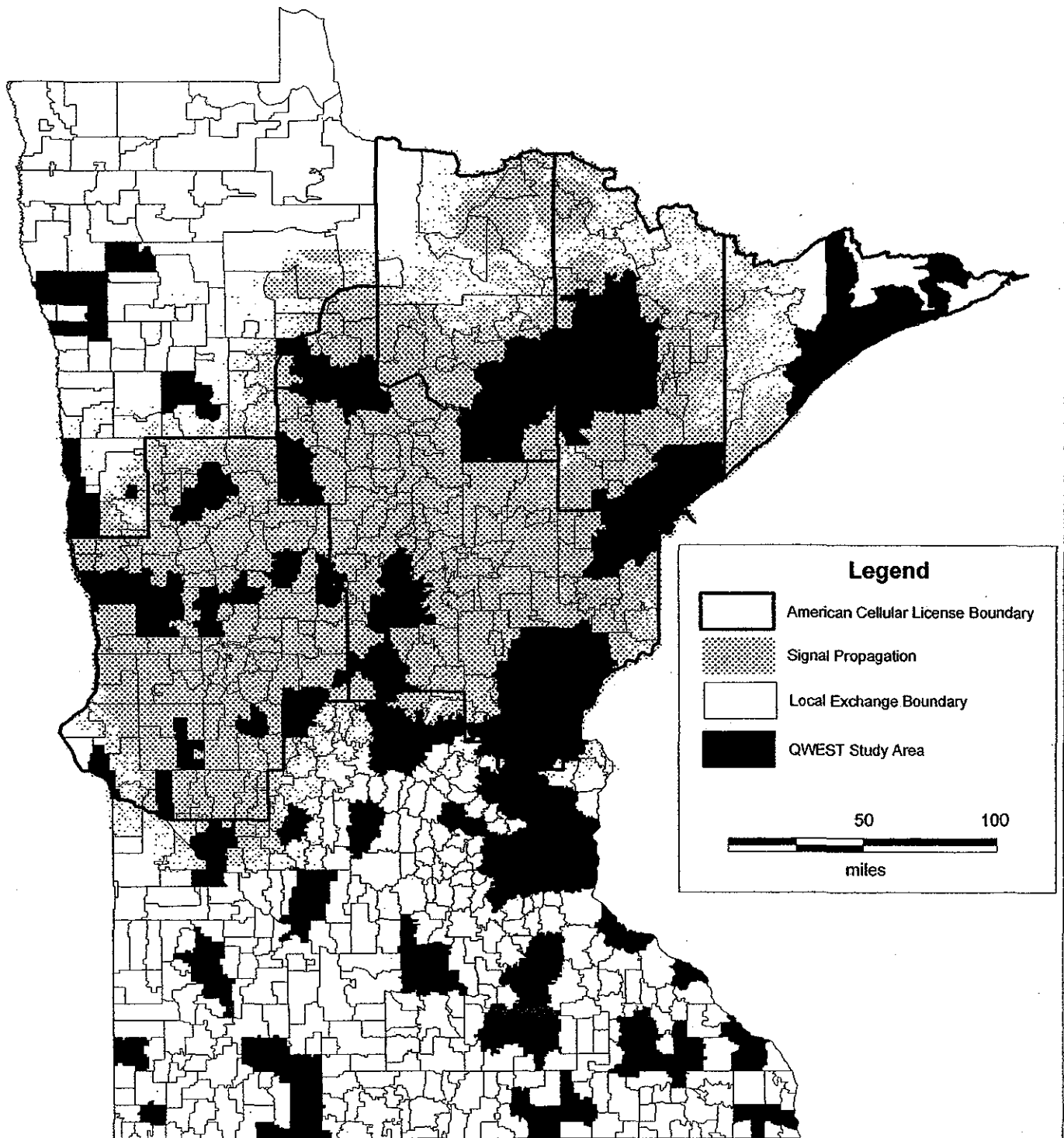
**Peoples Telephone Company of MN Study Area  
and American Cellular Corporation's Minnesota Licensed Areas**



**DOBSON**  
COMMUNICATIONS CORPORATION



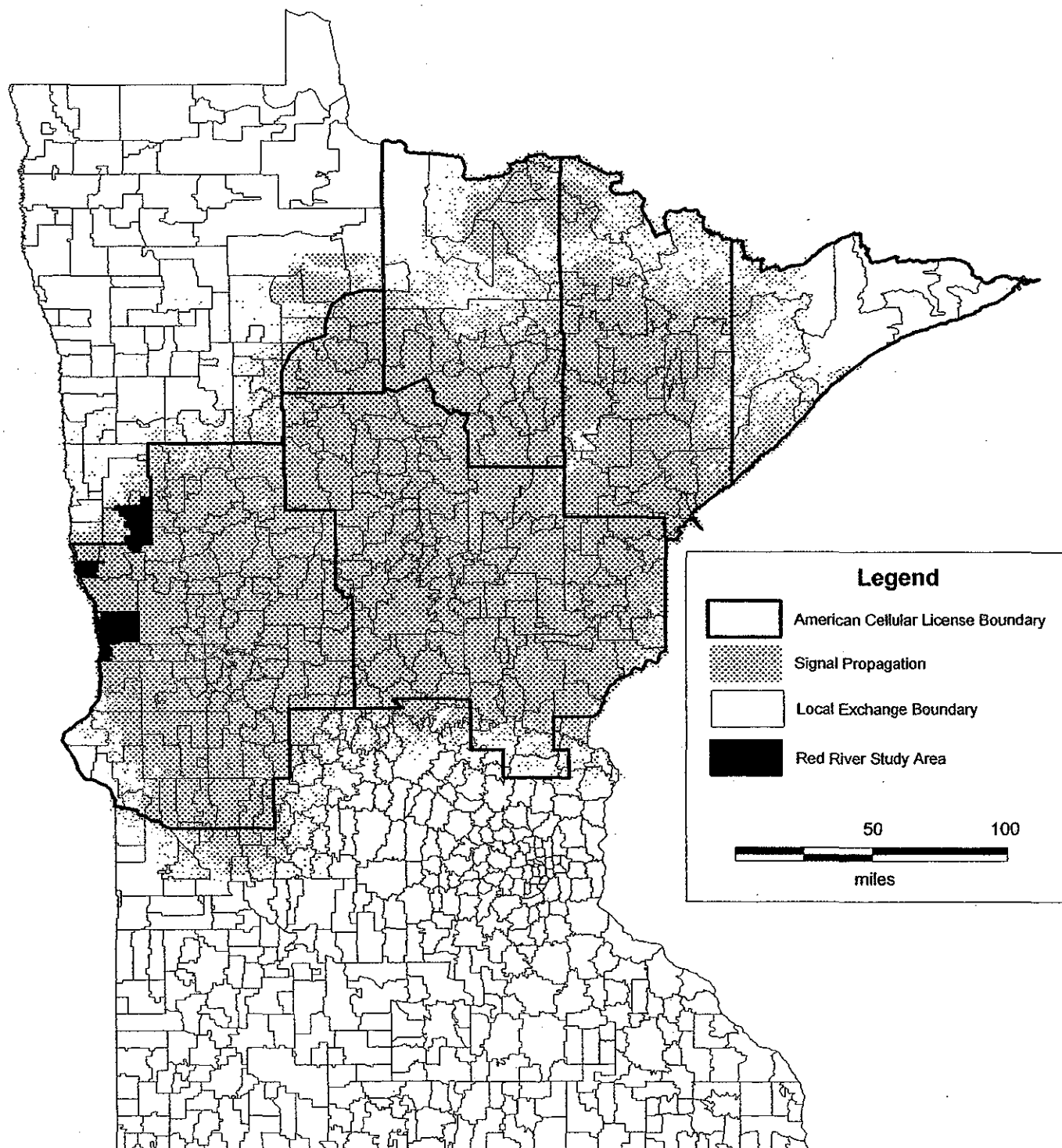
**QWEST Corporation - MN Study Area  
and American Cellular Corporation's Minnesota Licensed Areas**



**DOBSON**  
COMMUNICATIONS CORPORATION



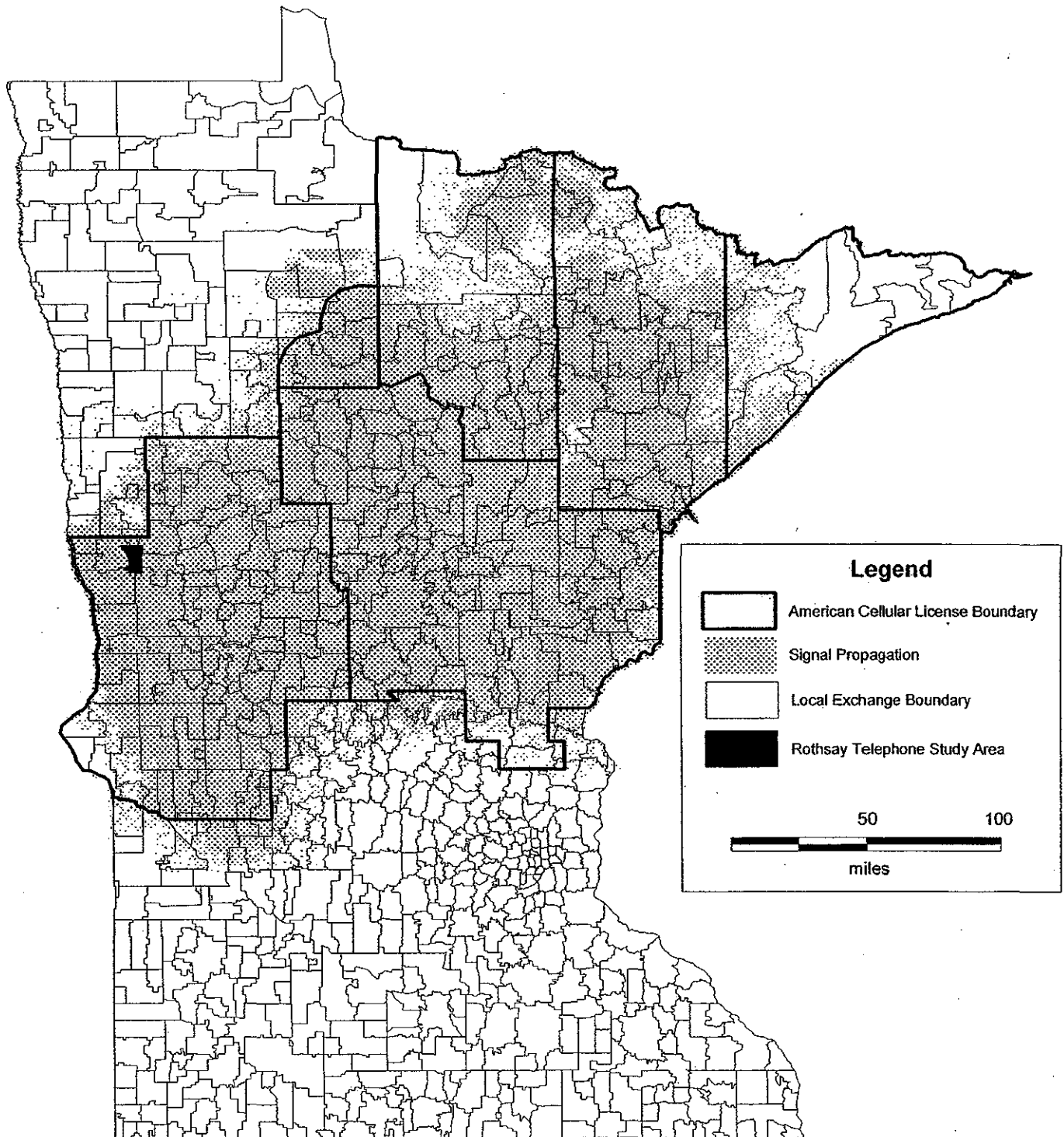
**Red River Rural Telephone Association Study Area  
and American Cellular Corporation's Minnesota Licensed Areas**



**DOBSON**  
COMMUNICATIONS CORPORATION



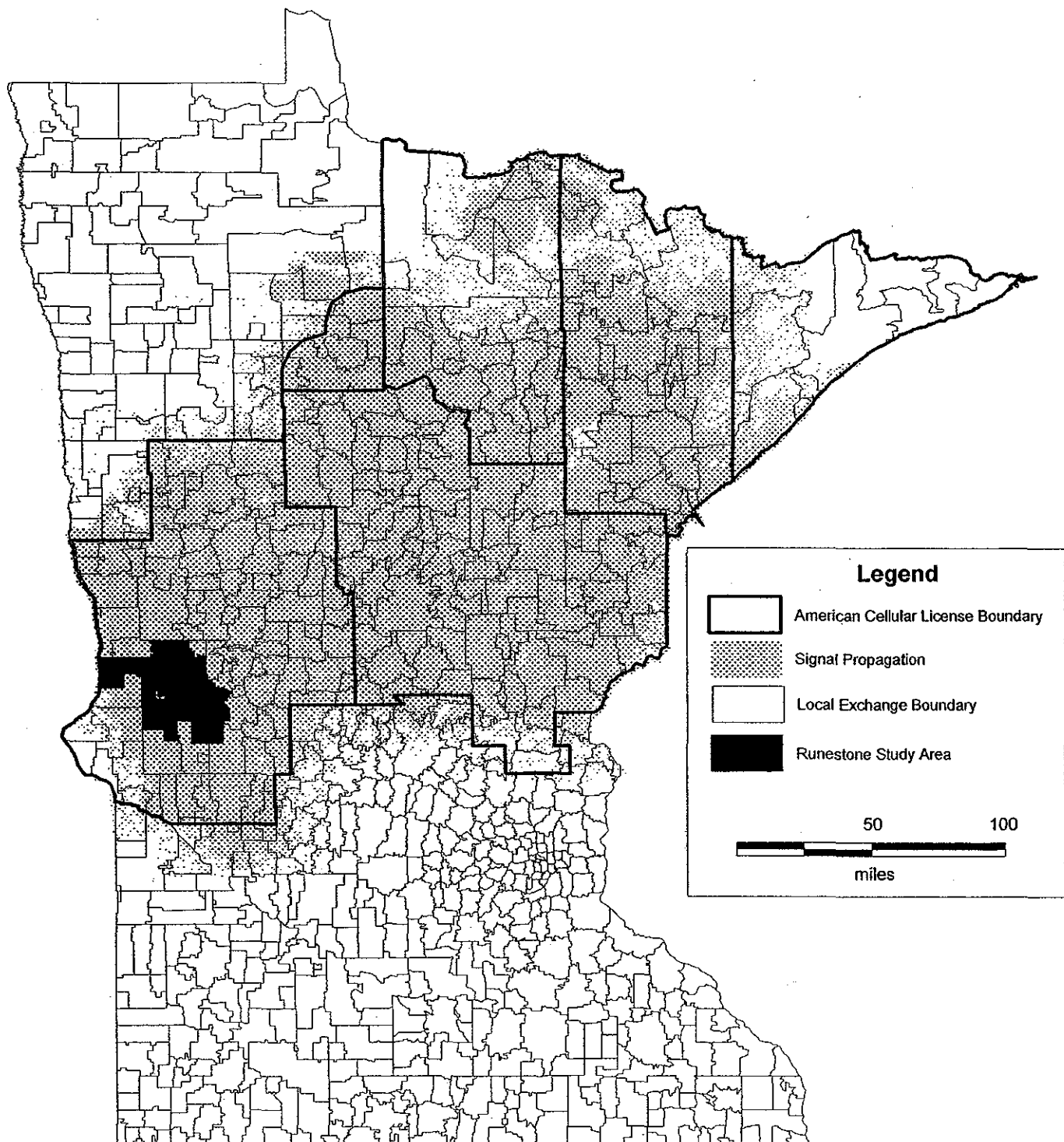
**Rothsay Telephone Association Study Area  
and American Cellular Corporation's Minnesota Licensed Areas**



**DOBSON**  
COMMUNICATIONS CORPORATION



**Runestone Telephone Association Study Area  
and American Cellular Corporation's Minnesota Licensed Areas**

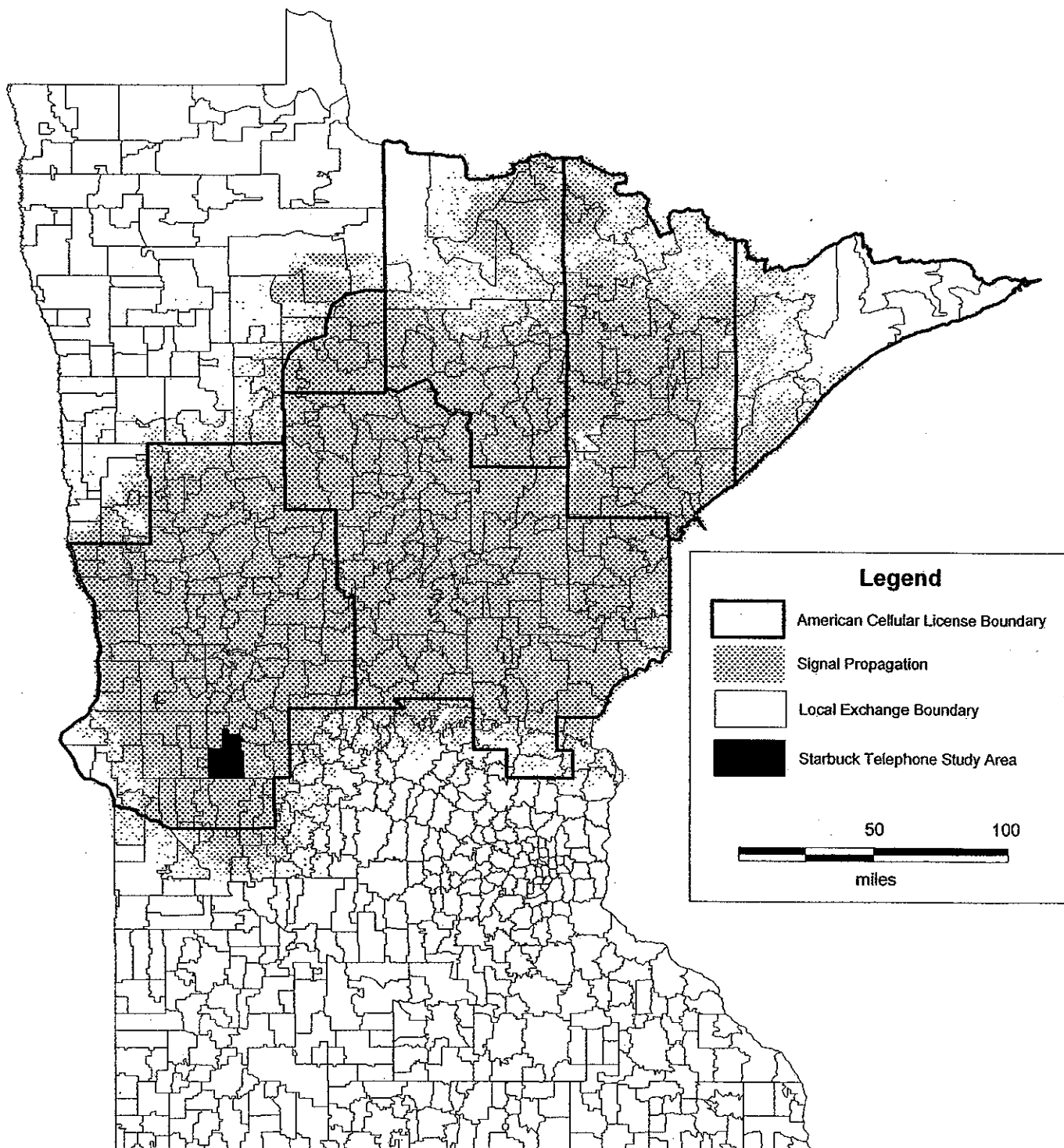


**DOBSON**  
COMMUNICATIONS CORPORATION





**Starbuck Telephone Company Study Area  
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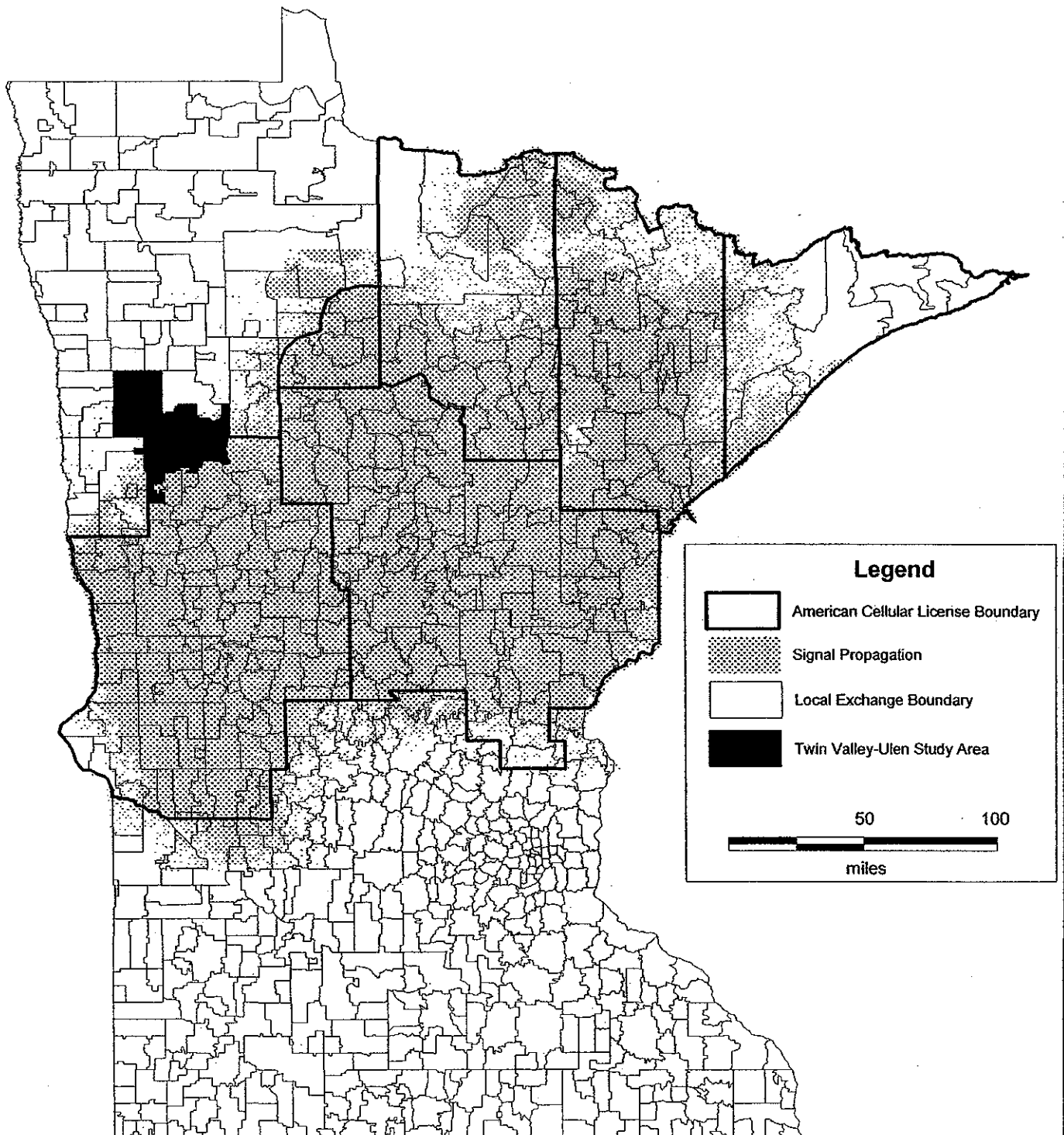


**DOBSON**  
COMMUNICATIONS CORPORATION





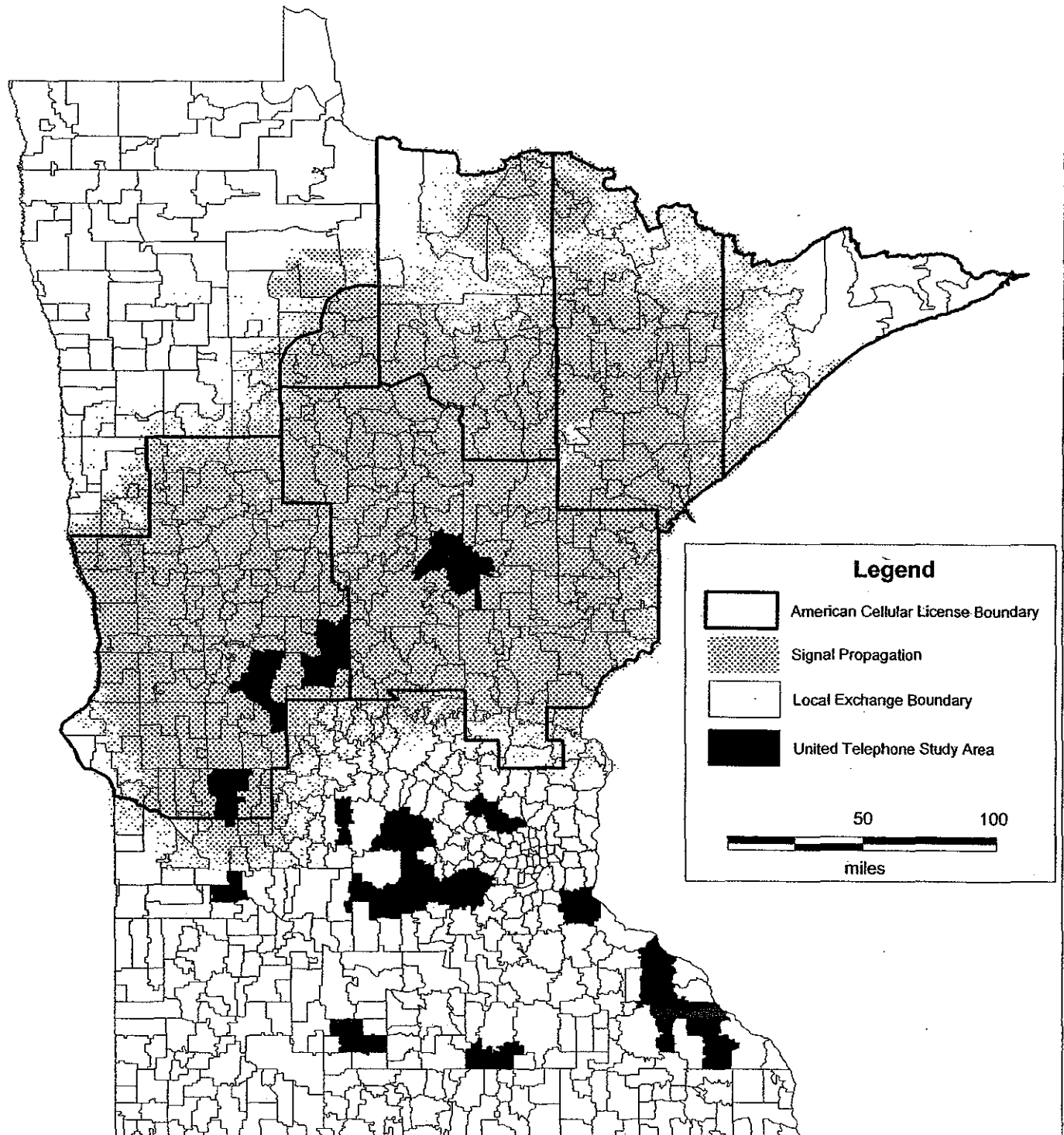
**Twin Valley - Ulen Telephone Company Study Area  
and American Cellular Corporation's Minnesota Licensed Areas**



**DOBSON**  
COMMUNICATIONS CORPORATION



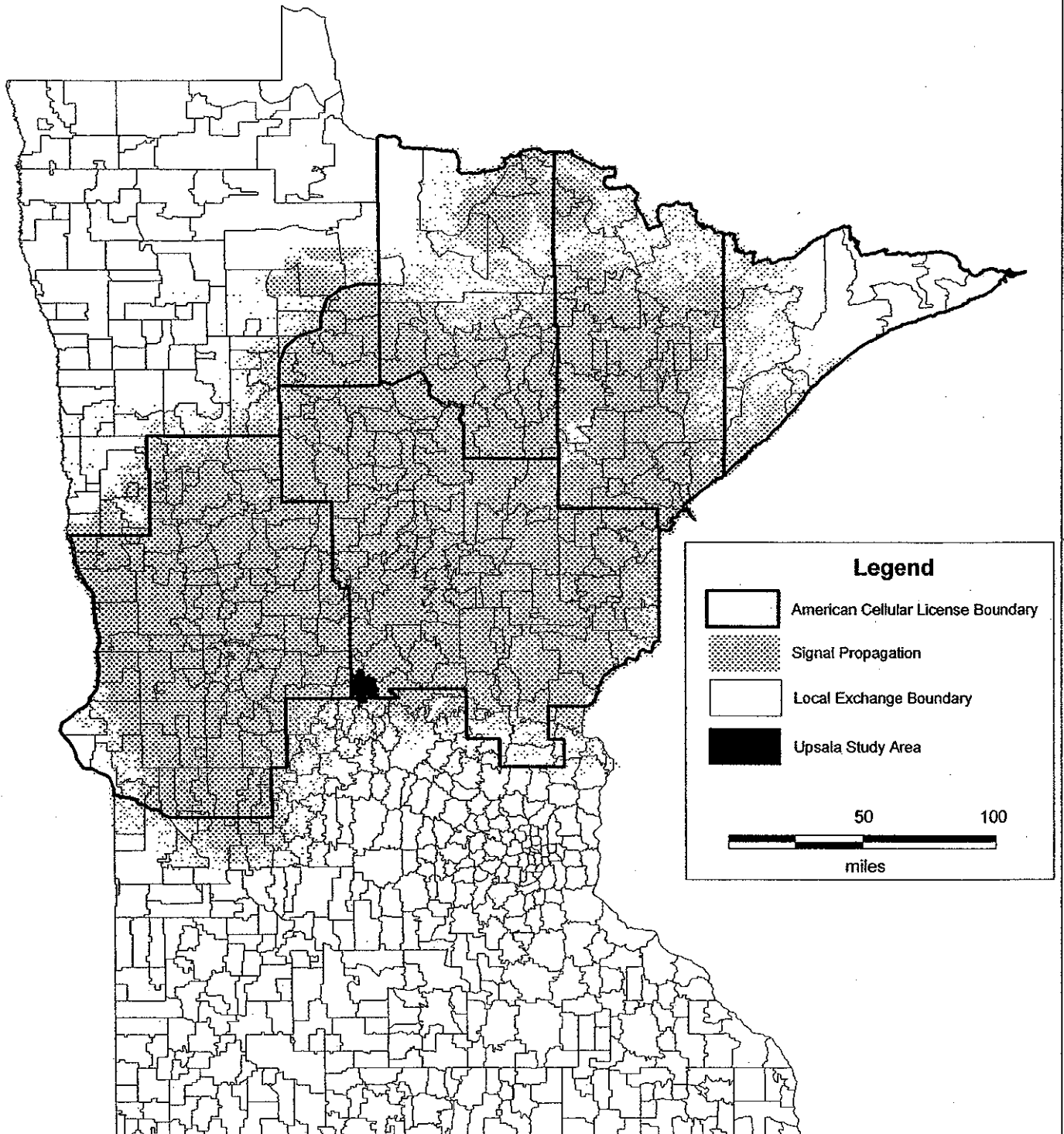
**United Telephone Company of Minnesota Study Area  
and American Cellular Corporation's Minnesota Licensed Areas**



**DOBSON**  
COMMUNICATIONS CORPORATION



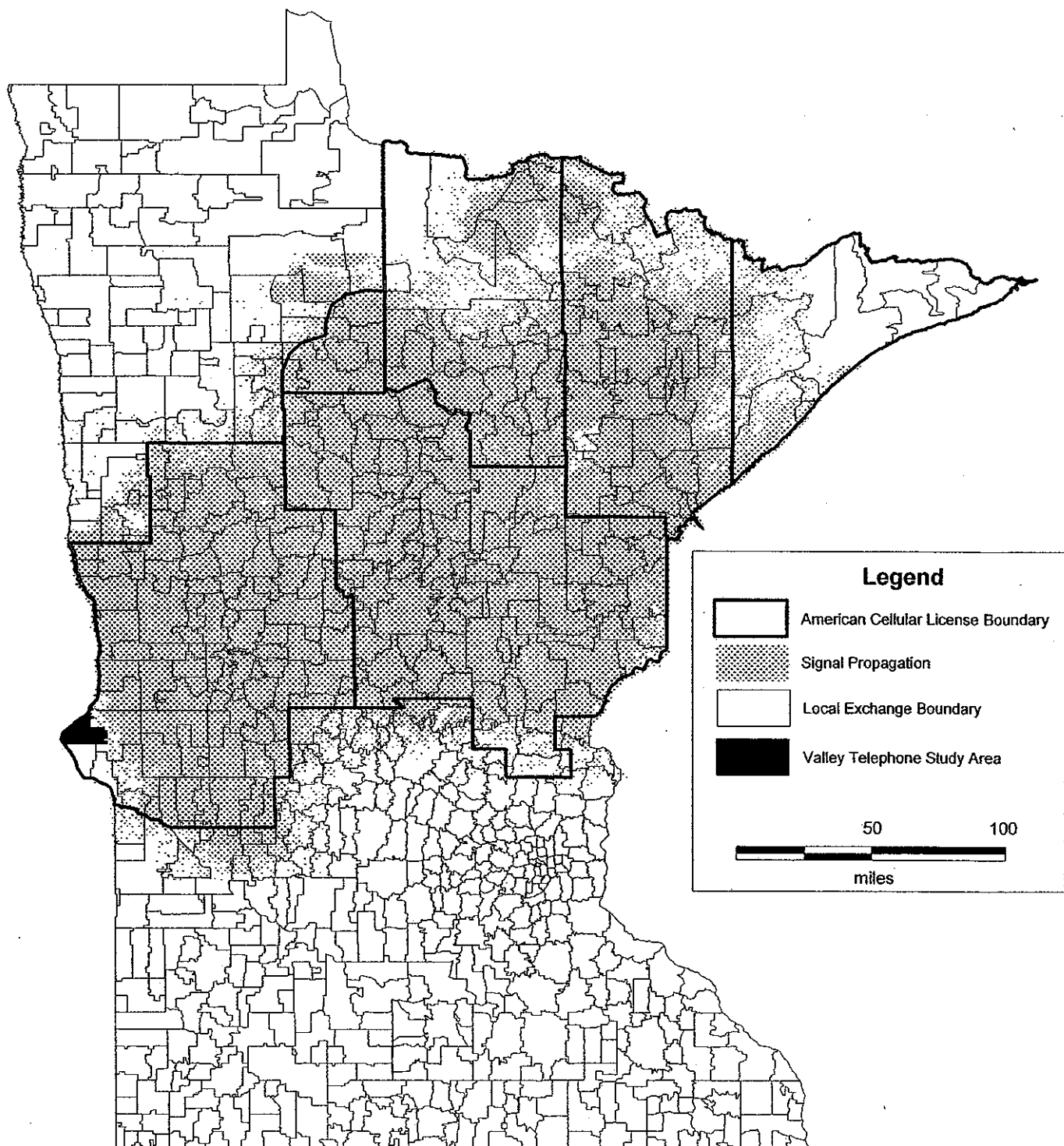
**Upsala Cooperative Telephone Association Study Area  
and American Cellular Corporation's Minnesota Licensed Areas**



**DOBSON**  
COMMUNICATIONS CORPORATION



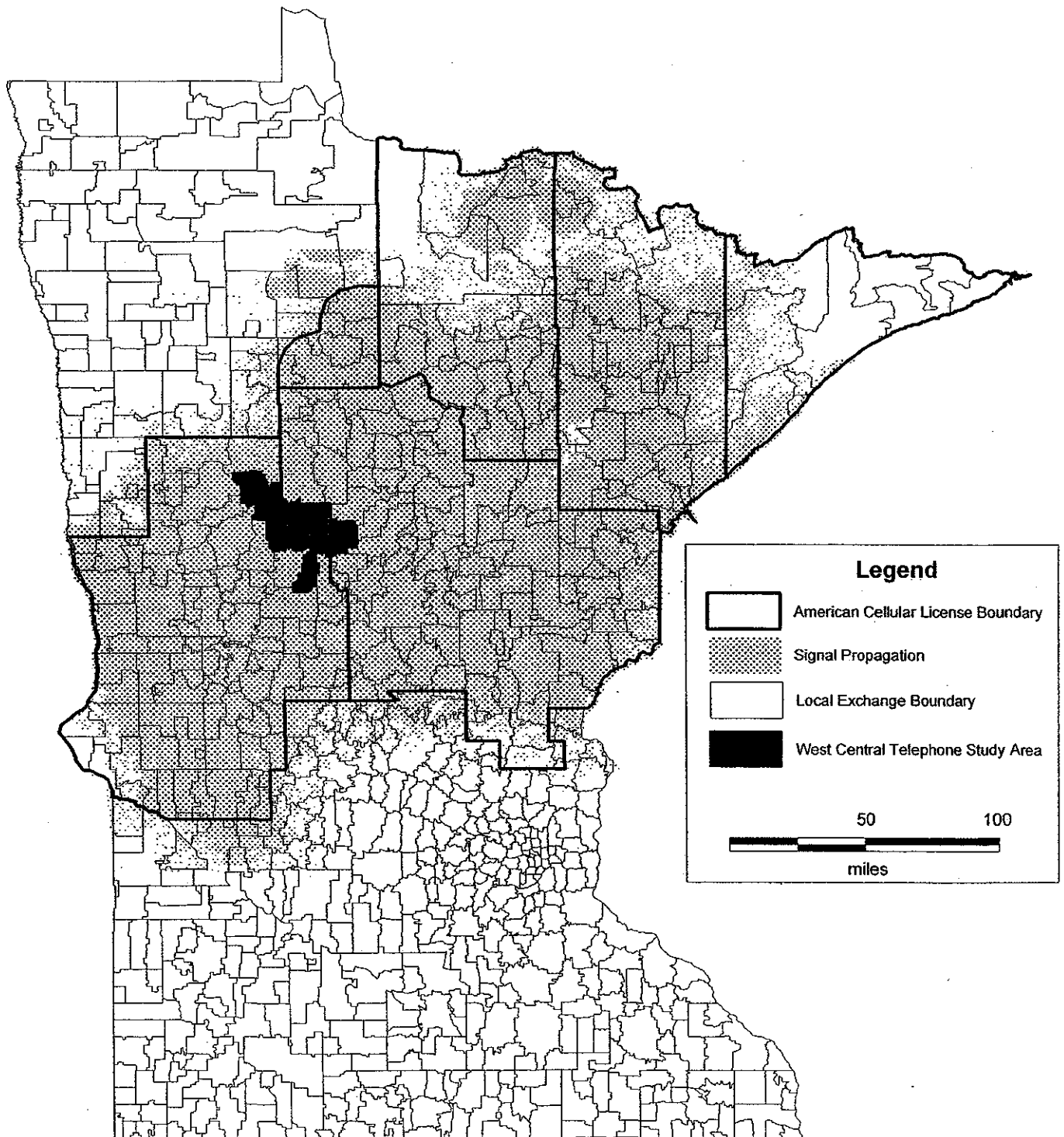
**Valley Telephone Company - MN Study Area  
and American Cellular Corporation's Minnesota Licensed Areas**



**DOBSON**  
COMMUNICATIONS CORPORATION



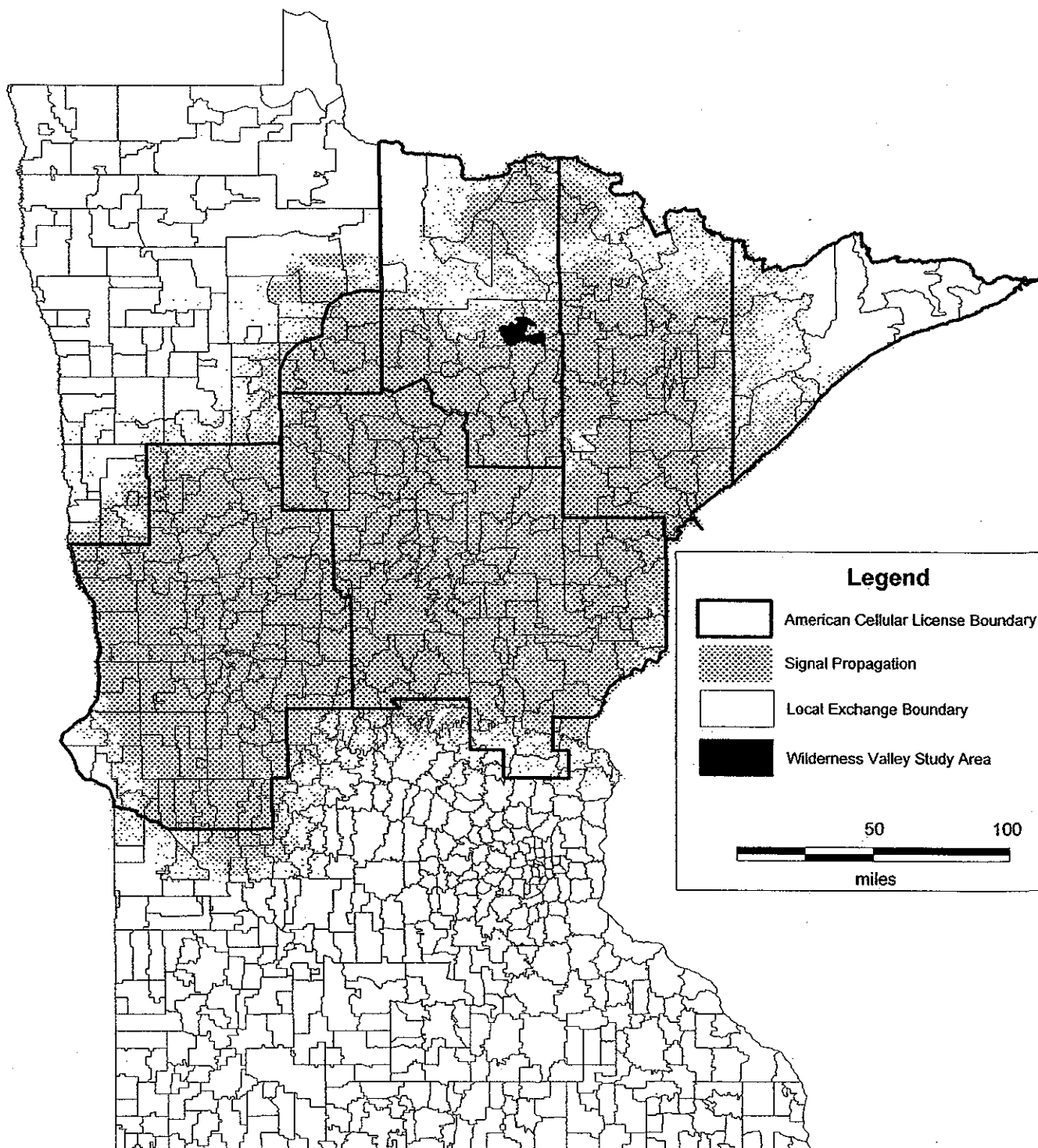
**West Central Telephone Association Study Area  
and American Cellular Corporation's Minnesota Licensed Areas**



**DOBSON**  
COMMUNICATIONS CORPORATION



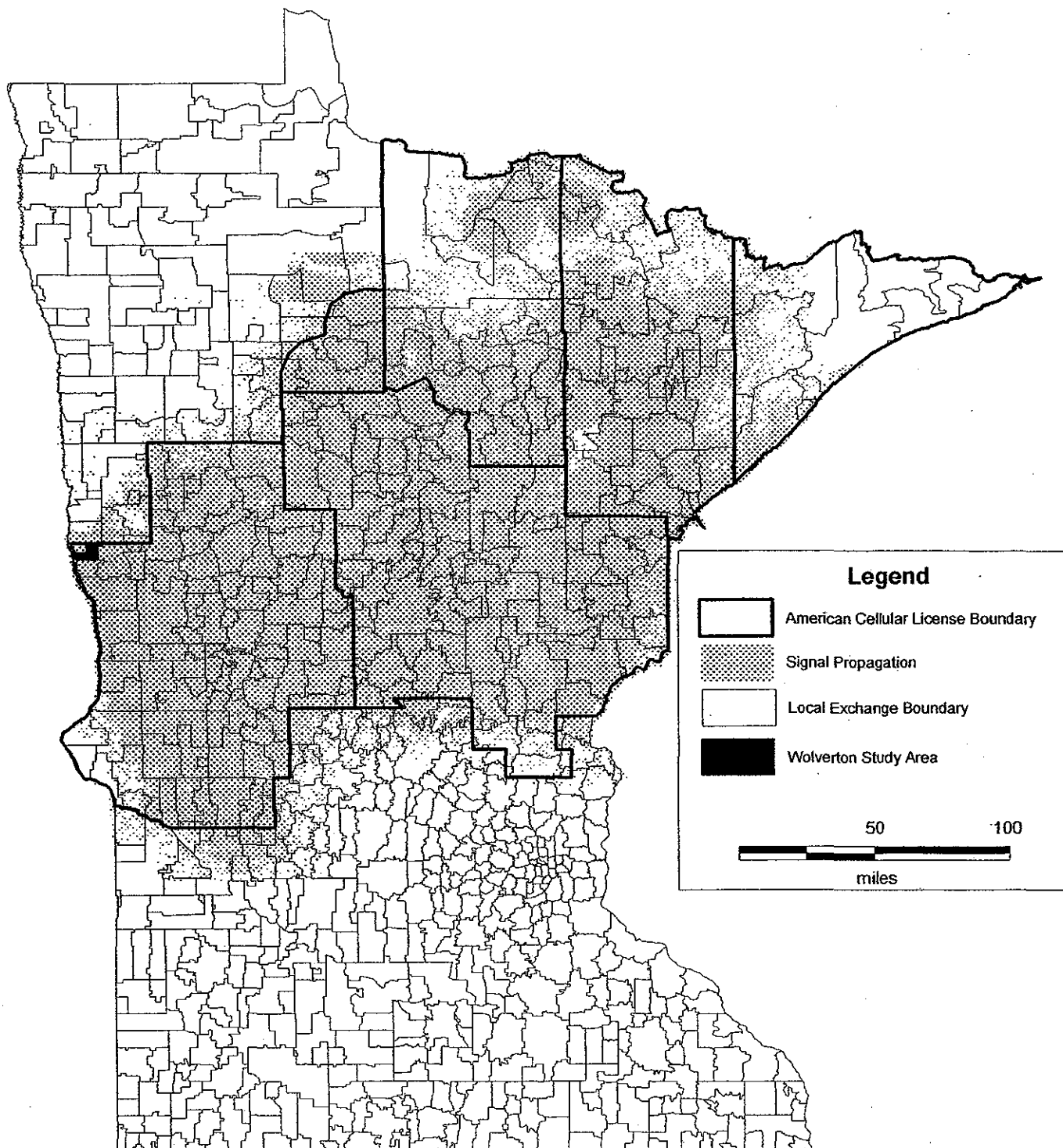
**Wilderness Valley Telephone Company, Inc. Study Area  
and American Cellular Corporation's Minnesota Licensed Areas**



**DOBSON**  
COMMUNICATIONS CORPORATION



**Wolverton Telephone Company Study Area  
and American Cellular Corporation's Minnesota Licensed Areas**



**DOBSON**  
COMMUNICATIONS CORPORATION



## ATTACHMENT 5

### ACC's Proposed Advertising Plan for the Designated Areas

American Cellular Corporation ("ACC") submits the following advertising plan in support of the Company's Petition for Designation as an Eligible Telecommunications Carrier.

#### **Description of Available Universal Service Offerings and Rates**

ACC offers the following telecommunications services to all consumers throughout its designated service areas:

- Voice grade access to the public switched telephone network;
- Unlimited local usage free of per minute charges;
- Dual tone multi-frequency signal or its functional equivalent;
- Single party service or its functional equivalent;
- Access to emergency service;
- Access to operator services;
- Access to interexchange service;
- Access to directory assistance; and
- Toll blocking without charge.

#### **Basic Universal Service Offering**

Monthly Fee	-	\$20.29 per month (excluding taxes and governmental assessments)
Activation Charge	-	There is a \$45.00 activation charge.
Customer Premises Equipment		\$5.00 per month
Long Distance Rates	-	10 ¢ per minute to all 50 states 25 ¢ per minute to Canada
International Calling	-	Rates vary by destination

#### **Optional Features**

Voice Mail	-	\$4.95 per month
Call Waiting	-	\$2.00 per month
Call Forwarding	-	\$2.00 per month
Six-Way Conference Calling	-	\$2.99 per month
Caller ID		\$2.00 per month
Directory Assistance	-	\$1.25 per listing
International Dialing Discount		\$4.99 per month
Protection Plus		\$4.99 per month

Subsidized discounts for Lifeline and Link-Up Services are available to customers meeting certain low income criteria.



### **Geographic Areas Where Services are Available**

ACC offers its universal service offerings to customers within its designated areas.

### **Medium of Publication**

ACC proposes to advertise using media of general distribution covering ACC's designated service areas in Minnesota. In addition, ACC will advertise on the Company's website ([www.celloneusa.com](http://www.celloneusa.com))

*See Attached Exhibit 1.*

### **Size and Type of Newspaper Advertising**

Newspaper advertising will be approximately 4½" wide by 3½" long. Size may vary depending upon the newspaper.

## **ATTACHMENT 6**

### **Minnesota Service Plans Eligible for Universal Service Funding**

#### **Basic Universal Service Offering**

\$20.29 per month

Unlimited local usage free of per minute charges

Toll charges \$0.10 per minute to all 50 states

Canada toll charges \$0.25 per minute

Customer Premises Equipment \$5.00 per month

#### **GSM Local 250**

\$30.00 per month

250 Anytime Minutes

No Off-Peak Minutes

Toll Charges \$0.15 per minute

Roaming Charges \$0.50 per minute on all other GSM networks

Additional Minutes - \$0.50 per minute

#### **GSM Local 250 Partner**

\$20.00 per month

No Anytime Minutes

Off-Peak Minutes - Shares with the GSM Local 200 Host

Toll Charges \$0.15 per minute

Roaming Charges \$0.50 per minute on all other GSM networks

Additional Minutes - \$.50 per minute

#### **GSM Local 600**

\$40.00 per month

600 Anytime Minutes

Unlimited Off-Peak Minutes

No Toll Charges

Roaming Charges \$0.35 per minute on all other GSM networks

Additional Minutes - \$0.35 per minute

#### **GSM Local 600 Partner**

\$20.00 per month

No Anytime Minutes

Off-Peak Minutes - Shares with the GSM Local 600 Host

No Toll Charges

Roaming Charges \$0.35 per minute on all other GSM networks

Additional Minutes - \$0.35 per minute

**GSM Local Unlimited PLUS**

\$50.00 per month

Unlimited Anytime Minutes plus 100 off network minutes included

Off Peak Minutes - Not Applicable

No Toll Charges

Overage Roaming Charges \$0.35 per minute on all other GSM networks, includes toll (after the 100 minutes are used)

Additional Minutes – Not Applicable

**GSM Local Unlimited Plus Partner**

\$45.00 per month

Anytime Minutes – Shares the unlimited bucket and the 100 additional minutes

Off Peak Minutes - Not Applicable

No Toll Charges

Overage Roaming Charges \$0.35 per minute on all other GSM networks includes toll (after the 100 minutes are used)

Additional Minutes - \$0.35

**GSM Promotional 750**

\$40.00 per month

1,000 Anytime Minutes

Off Peak Minutes – Not Applicable (none included in the package)

No Toll Charges

No Roaming Charges

Additional Minutes - \$0.35

**GSM National 300**

\$35.00 per month

300 Anytime Minutes

Unlimited Off Peak Minutes in home calling area

Unlimited Mobile to Mobile Calling on the Dobson Network

No Toll Charges

No Roaming Charges

Additional Minutes - \$0.35

**GSM National 450**

\$40.00 per month

450 Anytime Minutes

Unlimited Off Peak Minutes in home calling area

Unlimited Mobile to Mobile Calling on the Dobson Network

No Toll Charges

No Roaming Charges

Additional Minutes - \$0.35

**GSM National 600**

\$50.00 per month

600 Anytime Minutes

Unlimited Off Peak Minutes in home calling area

Unlimited Mobile to Mobile Calling on the Dobson Network

No Toll Charges

No Roaming Charges

Additional Minutes - \$0.35

**GSM National 900**

\$60.00 per month

900 Anytime Minutes

Unlimited Off Peak Minutes in home calling area

Unlimited Mobile to Mobile Calling in home calling area

No Toll Charges

No Roaming Charges

Additional Minutes - \$0.35

**GSM National 1250**

\$80.00 per month

1,250 Anytime Minutes

Unlimited Off Peak Minutes in home calling area

Unlimited Mobile to Mobile Calling in home calling area

No Toll Charges

No Roaming Charges

Additional Minutes - \$0.35

**GSM National 1,700**

\$100.00 per month

1,700 Anytime Minutes

Unlimited Off Peak Minutes in home calling area

Unlimited Mobile to Mobile Calling in home calling area

No Toll Charges

No Roaming Charges

Additional Minutes - \$0.35

**GSM National 2,500**

\$150.00 per month

2,500 Anytime Minutes

Unlimited Off Peak Minutes in home calling area

Unlimited Mobile to Mobile Calling in home calling area

No Toll Charges

No Roaming Charges

Additional Minutes - \$0.35

**GSM National 3,500**

\$200.00 per month

3,500 Anytime Minutes

Unlimited Off Peak Minutes in home calling area

Unlimited Mobile to Mobile Calling in home calling area

No Toll Charges

No Roaming Charges

Additional Minutes - \$0.35

**GSM National Partner**

\$9.99 per month

Anytime Minutes – Partners for GSM National Plans with MRC \$60 or greater

Off Peak Minutes – Shares with applicable host plan

Calling – Shares with applicable host plan

No Toll Charges

No Roaming Charges

Additional Minutes - \$0.35

**GSM National Partners**

\$20.00 per month

Anytime Minutes – Partner for the \$35, \$40 and \$50 GSM National Plans

Off Peak Minutes – Shares with applicable host plan

Calling – Shares with applicable host plan

No Toll Charges

No Roaming Charges

Additional Minutes - \$0.35

**TalkUSA 250**

\$40.00 per month

250 Anytime Minutes

Unlimited Off Peak Minutes on Dobson/ACC networks

Toll Charges – Not Applicable

Roaming Charges – Not Applicable

Additional Minutes - \$0.35

**TalkUSA 400**

\$50.00 per month

400 Anytime Minutes

Unlimited Off Peak Minutes on Dobson/ACC networks

Toll Charges – Not Applicable

Roaming Charges – Not Applicable

Additional Minutes - \$0.35

**TalkUSA 600**

\$70.00 per month

600 Anytime Minutes

Unlimited Off Peak Minutes on Dobson/ACC networks

Toll Charges -- Not Applicable

Roaming Charges -- Not Applicable

Additional Minutes - \$0.35

**TalkUSA Partner**

\$20.00 per month

Shares Anytime Minutes with host

Shares Off Peak Minutes with applicable host plan

Toll Charges -- Not Applicable

Roaming Charges -- Not Applicable

Additional Minutes - \$0.35

## ATTACHMENT 7

### Population Density Analysis

Company Name	Service Area	Total Area (in Square Miles)	Total Population	Population Density (per Square Mile)
Paul Bunyan Rural Tel. Coop.	Requesting Designation	2,609	12,293	4.71
	Not Requesting Designation	9,309	1,778	5.23
Red River Rural Telephone Assoc.	Requesting Designation	244	315	1.29
	Not Requesting Designation	165	1283	7.77

## ATTACHMENT 8

### Underlying Data for Population Density Analysis

Paul Bunyan Rural Tel. Coop. - Seeking Designation	Wire Center	Square Miles	Population
	BECDMNXB	94	508
	DRRVMNXD	255	3916
	INGRMNXI	171	750
	LAPTMNXL	203	2424
	NOMEMNXN	1437	1078
	SLWYMNXS	78	1006
	SQLKMNXS	232	377
	TRRVMNXT	139	2239
	<b>Total</b>	<b>2609</b>	<b>12298</b>
Population Density			4.71

Paul Bunyan Rural Tel. Coop. - Not Seeking Designation	Wire Center	Square Miles	Population
	KLHRMNXX	617	1570
	PNMHMNX	728	1322
	PFSKMNX	224	2237
	RDLKMNX	209	4180
	<b>Total</b>	<b>1778</b>	<b>9309</b>
Population Density			5.23

Red River Rural Telephone Assoc. - Seeking Designation	Wire Center	Square Miles	Population
	ABRCNDXA	48	183
	FAMTNDBC	196	972
	<b>Total</b>	<b>244</b>	<b>1155</b>
Population Density			4.72

Red River Rural Telephone Assoc. - Not Seeking Designation	Wire Center	Square Miles	Population
	BRVIMNX	38	247
	RLLGMNX	127	1036
	<b>Total</b>	<b>165</b>	<b>1283</b>
Population Density			7.77



**ATTACHMENT 9**

**High-Cost Certification Letter**

Irene Flannery  
Vice President – High Cost  
& Low Income Division  
Universal Service Administrative Company  
2120 L Street, N.W.  
Suite 600  
Washington, D.C. 20037

Marlene H. Dortch  
Office of the Secretary  
Federal Communications Commission  
445 – 12th Street, S.W.  
Washington, D.C. 20554

Irene Flannery  
Vice President – High Cost  
& Low Income Division  
Universal Service Administrative Company  
444 Hoes Lane  
RRC 4A1060  
Piscataway, NJ 08854

**Re: CC Docket No. 96-45, Federal-State Joint Board on Universal Service  
American Cellular Corporation Certification, 47 C.F.R. §§ 54.313 & 54.314**

Ms. Dortch and Ms. Flannery:

The Minnesota Public Utilities Commission ("MPUC") has designated American Cellular Corporation ("ACC") as an eligible telecommunications carrier ("ETC") in the State of Minnesota. The MPUC's Order designating ACC as an ETC is enclosed as **Exhibit A**.

This letter is MPUC's certification to the Federal Communications Commission ("FCC") and Universal Service Administrative Company ("USAC") that all federal high-cost universal service support provided to ACC in Minnesota will be used only for its intended purposes under Section 254(e) of the Telecommunications Act of 1996 ("Act").

ACC has certified to the MPUC that all federal high-cost universal service support received by the Company in Minnesota will be used pursuant to Section 254(e) of the Act.

Accordingly, MPUC hereby certifies that all federal high-cost universal service support received by ACC will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. This letter serves as a supplemental certification to the annual certification filed by MPUC, pursuant to FCC Rules 54.313(c) and 54.314(c). This supplemental certification is to ensure that ACC is eligible to receive high-cost universal service support beginning on the date of the Company's ETC designation.

If you have any questions or concerns regarding this certification, please contact me at your convenience.

By the Commission

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Secretary to the Commission

Enclosure

cc: American Cellular Corporation

## AFFIDAVIT OF SERVICE

STATE OF MINNESOTA     )  
                                      ) ss.  
COUNTY OF HENNEPIN    )

In the Matter of American Cellular Corporation  
Petition for Designation as an Eligible  
Telecommunications Carrier and Redefinition  
of Rural Telephone Company Service Area  
Requirement

Docket No. \_\_\_\_\_

Sandra J. Cambronne, being first duly sworn on oath, deposes and states that on the 1<sup>st</sup> day of July, 2005, copies of the Verified Petition for Designation as an Eligible Telecommunications Carrier and Redefinition of Rural Telephone Company Service Area Requirement for Certain Service Areas were served personally or by U.S. Mail upon:

**Personal Service**

Dr. Burl W. Haar [original and 15 copies]  
Executive Secretary  
MN Public Utilities Commission  
121 Seventh Place E, Suite 350  
Saint Paul, MN 55101

**Personal Service**

Linda Chavez [4 copies]  
Telephone Docket Coordinator  
Minnesota Department of Commerce  
85 Seventh Place East, Suite 500  
Saint Paul, MN 55101

**Personal Service**

Curt Nelson  
OAG-RUD  
900 BRM Tower  
445 Minnesota Street  
Saint Paul, MN 55101

**Personal Service**

Richard Johnson  
Moss & Barnett, PA  
4800 Norwest Center  
90 South Seventh Street  
Minneapolis, MN 55402

Arrowhead Communications Corp.  
P.O. Box 428  
Hector, MN 55342-0428

Arvig Telephone Company  
525 Junction Road  
Madison, WI 53717

Benton Cooperative Telephone Company  
2220 – 125<sup>th</sup> Street NW  
Rice, MN 56367

Blackduck Telephone Company  
P.O. Box 325  
Blackduck, MN 56630-0325

Callaway Telephone Company, Inc.  
160 Second Avenue SW  
Perham, MN 56573

CenturyTel of Minnesota, Inc.  
333 North Front Street  
LaCrosse, WI 56502-4800

Consolidated Telephone Company  
1102 Madison Street  
Brainerd, MN 56401-0972

Crosslake Communications – Telephone Fund  
P.O. Box 70  
Crosslake, MN 56442-0070

Eagle Valley Telephone Company  
P.O. Box 428  
Hector, MN 55342-0428

Emily Cooperative Telephone Company  
P.O. Box 100  
Emily, MN 56447-0100

Federated Utilities, Inc.  
405 Second Avenue E  
P.O. Box 156  
Chokio, MN 56221-0156

Johnson Telephone Company  
201 First Avenue NE  
P.O. Box 39  
Remer, MN 56672-0039

Lowry Telephone Company  
123 Memorial Drive  
P.O. Box 336  
Hoffman, MN 56339

Mid-State Telephone Company  
525 Junction Road  
Madison, WI 53717

Northern Telephone Company  
1396 County Road 25  
Wawina, MN 55736

The Park Region Mutual Telephone Company  
100 Main Street  
P.O. Box 277  
Underwood, MN 56386-0277

The Peoples Telephone Co. of Bigfork  
P.O. Box 45  
Parkers Prairie, MN 56361-0045

East Ottertail Telephone Company  
160 Second Avenue SW  
Perham, MN 56573

Federal Telephone Cooperative  
405 Second Avenue E  
P.O. Box 156  
Chokio, MN 56221-0156

Gardonville Coop. Telephone Assn.  
P.O. Box 187  
Brandon, MN 56315-0187

Loretel Systems, Inc.  
P.O. Box 428  
Hector, MN 55342-0428

Melrose Telephone Company  
P.O. Box 100  
Melrose, MN 56352-0100

Midwest Telephone Co.  
P.O. Box 45  
Parkers Prairie, MN 56361-0045

Osakis Telephone Company  
P.O. Box 45  
Parkers Prairie, MN 56361-0045

Paul Bunyan Rural Telephone Company  
1831 Anne Street NW  
Bemidji, MN 56601

Red River Telephone Association  
506 Broadway  
P.O. Box 136  
Abercrombie, NE 58001

Rothsay Telephone Company  
137 First NW  
P.O. Box 158  
Rothsay, MN 56579-0158

Starbuck Telephone Company  
227 So. Main Street  
Clara City, MN 56222-0800

Upsala Co-op Telephone Association  
P.O. Box 366  
Upsala, MN 56384-0366

West Central Telephone Association  
P.O. Box 304  
Sebeka, MN 56477-0304

Victor Dobras  
Sprint  
30 East Seventh Street, Suite 1630  
Saint Paul, MN 55101-4901

Jason Topp  
Qwest  
200 South Fifth Street, Room 395  
Minneapolis, MN 55402

Runestone Telephone Association  
P.O. Box 336  
Hoffman, MN 56339-0336

Twin Valley-Ulen Telephone Company  
160 Second Avenue SW  
Perham, MN 56573

Valley Telephone Company  
100 Main Street  
P.O. Box 277  
Underwood, MN 56586-0277

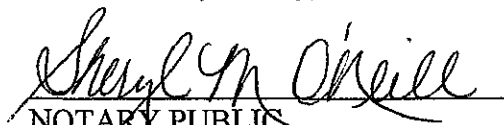
Wolverton Telephone Company  
P.O. Box 129  
Wolverton, MN 56594-0129

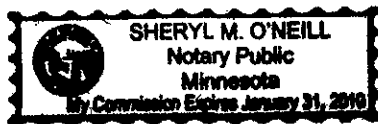
Kevin Saville  
Citizens/Frontier Communications  
2378 Wilshire Blvd.  
Mound, MN 55364

Wilderness Valley Telephone Company  
7 Little Bear Point Road  
Cook, MN 55723

  
Sandra J. Cambronne

Subscribed and sworn to before  
me this 1<sup>st</sup> day of July, 2005

  
NOTARY PUBLIC



**Exhibit B**

**Minnesota PUC's February 3, 2006 Order Granting Eligible Telecommunications  
Carrier Designation and Redefining Service Area Requirement**

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye  
Marshall Johnson  
Ken Nickolai  
Thomas Pugh  
Phyllis A. Reha

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of American Cellular  
Corporation's Petition for Designation as an  
Eligible Telecommunications Carrier and  
Redefinition of Rural Telephone Company  
Service Area Requirement

ISSUE DATE: February 3, 2006

DOCKET NO. PT-6458/M-05-1122

ORDER GRANTING ELIGIBLE  
TELECOMMUNICATIONS CARRIER  
DESIGNATION AND REDEFINING  
SERVICE AREA REQUIREMENT

**PROCEDURAL HISTORY**

On July 5, 2005, American Cellular Corporation (ACC or Company) filed a petition for designation as an eligible telecommunications carrier (ETC) for purposes of obtaining universal service support from federal universal service funds. ACC requested ETC designation in the service areas of certain rural telephone companies which ACC serves in their entirety. ACC also requested ETC designation in rural telephone companies' wire centers where ACC does not serve the entire study area.

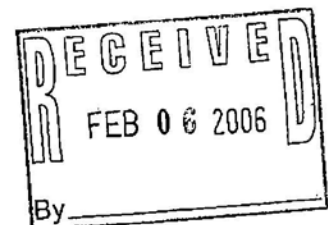
On October 23, 2005, the Commission found ACC's application to be incomplete and directed ACC to supplement its filing.

On November 7, 2005, ACC filed supplementary information.

On December 2, 2005, the Commission received comments from Citizens Telecommunications Company of Minnesota, LLC (Citizens), and the Minnesota Department of Commerce (the Department).

On December 21, 2005, ACC filed reply comments.

The Commission met on January 19, 2006, to consider this matter.



## **FINDINGS AND CONCLUSIONS**

### **I. Background**

The federal Telecommunications Act of 1996 (the Act)<sup>1</sup> was designed to open the nation's telecommunications markets to competition. Its universal service provisions were designed to keep competition from driving rates to unaffordable levels for "low-income consumers and those in rural, insular, and high cost areas"<sup>2</sup> by subsidizing those rates. Only carriers that have been designated ETCs are eligible to receive these subsidies.<sup>3</sup>

Congress directed the Federal Communications Commission (FCC) to work with the states through a Federal-State Joint Board to overhaul existing universal service support systems.<sup>4</sup> The Act required the FCC to determine which services qualified for subsidies. It authorized the states to determine which carriers qualified for universal service funding. The Act's term for these carriers was "eligible telecommunications carriers" (ETCs).<sup>5</sup>

### **II. The Legal Standard**

In its October 25, 2005 Order in this matter, the Commission determined that it would review ACC's application for ETC status based on the ETC standards in effect at the time of the Company's initial filing (July 5, 2005) rather than based on requirements adopted by the Commission subsequent to that filing.<sup>6</sup>

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<sup>1</sup> Pub. L. No 104-104, 110 Stat. 56, codified throughout title 47, United States Code.

<sup>2</sup> 47 U.S.C. § 254(b)(3).

<sup>3</sup> 47 C.F.R. § 54.201(a)(1).

<sup>4</sup> 47 U.S.C. § 254.

<sup>5</sup> 47 U.S.C. § 214(e).

<sup>6</sup> See *In the Matter of a Commission Investigation to Consider Adopting the Federal Communications Commission's Standards for Designating Eligible Telecommunications Carriers*, Docket No. P-999/M-05-1169, ORDER ADOPTING REQUIREMENTS FOR DESIGNATING ELIGIBLE TELECOMMUNICATIONS CARRIERS, AS MODIFIED (October 31, 2005).



### **A. ETC Designation**

Applications for ETC status are governed by federal and state law.<sup>7</sup> The Act's § 214 requires an ETC to offer certain designated services throughout its ETC-designated service area, use its own facilities or a combination of its own facilities and resale of another carrier's service in providing these services, and advertise the availability and price of these services.<sup>8</sup> While the list of designated services may change over time,<sup>9</sup> FCC rule 47 C.F.R. § 54.101(a) currently designates the following services:

- voice grade access to the public switched network
- local usage
- touch-tone service or its functional equivalent
- single-party service
- access to emergency services, including 911 and enhanced 911
- access to operator services
- access to interexchange services
- access to directory assistance
- toll limitation for qualifying low-income customers

### **B. Service Area Disaggregation**

A carrier must offer and advertise the required basic services throughout any "service area" for which the carrier is designated an ETC. While state commissions establish service area boundaries, those boundaries typically coincide with the service territory boundaries or exchange area boundaries of incumbent landline carriers. The Act defines "service area" as:

a geographic area established by a State commission ... for the purpose of determining universal service obligations and support mechanisms. In the case of an area served by a rural telephone company, "service area" means such company's "study area" unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c) of this title, establish a different definition of service area for such company.<sup>10</sup>

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<sup>7</sup> 47 U.S.C. §§ 254, 214; 47 C.F.R. § 54.101; Minn. Rules parts 7811.1400 and 7812.1400.

<sup>8</sup> 47 U.S.C. § 214(e)(1).

<sup>9</sup> 47 U.S.C. § 254(c)(1).

<sup>10</sup> 47 U.S.C. § 214(e)(5); 47 C.F.R. § 54.207.

For rural telephone companies, the Act established a default definition of "study area" that comprises the company's entire service area within a state. This default definition assigns all of a rural telephone company's exchanges to one large service area.

But the Act also provides for "redefining" a service area to divide it into multiple areas for universal service purposes. In considering whether to disaggregate a rural telephone company's service territory, the state and the FCC consider three factors identified by the Joint Board:<sup>11</sup> 1) the risk of "cream skimming," 2) the regulatory status accorded rural telephone companies under the 1996 Act, and 3) any additional administrative burdens that might result from the disaggregation.<sup>12</sup>

A state may disaggregate a non-rural telephone company's service area at its own discretion. But a rural telephone company's service area may not be disaggregated without the mutual consent of the state and the FCC.<sup>13</sup>

### III. The Company's Petition

#### A. ETC Designation

ACC sought immediate ETC designation for the entire study areas or redefined wire centers served by Qwest, Arrowhead, Arvig, Benton, Blackduck, Callaway, CenturyTel of Minnesota, CenturyTel of Northwest Wisconsin, Citizens/Frontier, Consolidated, Crosslake, Eagle Valley, East Otter Tail, Emily, Federated Telephone, Federated Utilities, Gardonville, Johnson, Loretel, Lowry, Melrose, Mid-State, Midwest, Northern, Osakis, Park Region, Peoples, Rothsay, Runestone, Starbuck, Twin Valley - Ulen, United, Upsala, Valley, West Central, Wilderness, and Wolverton.

According to ACC, it satisfies each of the following requirements for ETC designation because

1. it is a Common Carrier;
2. it provides each of the nine supported services;
3. it will offer and advertise the availability of, and charges for, the supported services;
4. it will provide services throughout its designated areas; and
5. designating ACC as an ETC will serve the public interest.

ACC indicated that it is willing to comply with the requirements imposed by the Commission on previously-designated wireless ETCs like Midwest Wireless, RCC Minnesota and Western Wireless.

---

<sup>11</sup> 47 C.F.R. § 54.207(c)(1)(ii).

<sup>12</sup> See *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Recommended Decision, 12 FCC Rcd 87, 179-80, ¶¶ 172-74 (1996) (Joint Board Recommendation).

<sup>13</sup> 47 C.F.R. § 54.207(c).

The Company also included a copy of its proposed advertising plan and a list of service plans eligible for USF. Among its service plans is a Basic Universal Service Offering with unlimited local usage at \$20.29 per month.

ACC also requested that the Commission certify ACC's use of support effective on the date of the Company's ETC designation. The Company stated that this would allow it to receive high-cost universal service support starting on the date of the ETC designation.

#### **B. Service Area Redefinition**

Finally, ACC requested that the Commission redefine the Company's service area standard from the study area to the wire center level in areas served by the Paul Bunyan Rural Telephone Cooperative (Paul Bunyan) and Red River Rural Telephone Association (Red River) to enable the Company to meet the federal ETC requirements under 47 U.S.C. § 214(e).

#### **IV. ACC's Supplemental Filing Regarding ETC Designation**

At the October 13, 2005 hearing on this matter, the Department stated that ACC's initial filing was incomplete in several respects but that ACC had subsequently provided it with adequate information in response to Information Requests. In the Department's view, the information provided it by ACC would, if filed with the Commission, satisfy the ETC filing requirements.

In its October 25, 2005 Order, the Commission found that the information in question is not part of the record of this matter and that ACC's filing was incomplete. The Commission directed ACC to file the information with the Commission.

On November 7, 2005, ACC's supplemental filing responded to the outstanding ETC requirements as follows:

- **Facilities:** ACC provided a list and description of its existing network facilities and signal coverage in each of the areas in which ETC designation is sought.
- **Commitment to Provide Service upon Reasonable Customer Request:** ACC committed to undertake various steps to provide service to customers within the designated service areas in the event they do not receive adequate signal coverage at their primary residence. ACC also identified six new facility construction projects that are intended to expand network coverage in the areas of Crane Lake, Nett Lake, Babbitt, Silver Bay, Lutsen and Grand Marais.
- **Description of Basic Universal Service (BUS) Offering:** ACC described a BUS offering, including unlimited local usage and expanded local calling areas. The BUS offering is also described in the informational tariff and Customer Service Agreement.
- **Advertising Plan:** ACC updated its advertising plan describing the availability of its service offerings, including that of Lifeline and Link-Up for qualified consumers.

- **Informational Tariff and Customer Service Agreement:** The Company provided an informational tariff describing the supported services, features, pricing and local calling areas for the BUS. ACC also filed a revised Customer Service Agreement to include customer service and consumer protection provisions.

## **V. Positions of the Parties Regarding ETC Designation**

### **A. The Department**

The Department stated that ACC has made a credible showing, supported by facts and commitments, of its capability and intent to provide and advertise an affordable, quality offering, including the nine federally supported services throughout its proposed service area, and that its designation is in the public interest. The Department recommended Commission approval of ACC's ETC petition.

### **B. Citizens**

Citizens recommended that the Commission deny ACC's ETC petition unless ACC demonstrates compliance with all the Commission's criteria and standards for ETC designation. According to Citizens, ACC has failed to show that it will have the ability to provide service to all customers in the area in which it seeks designation. Citizens also claims that ACC's filing does not comply with the ETC designation criteria recently adopted by the Commission by not providing a two-year network improvement plan, a commitment for specific start and completion dates for the promised construction projects, and other ETC eligibility requirements by the FCC.

## **VI. Commission Analysis and Action Regarding Request for ETC Designation**

### **A. Newly Adopted ETC Designation requirements Inapplicable**

In its October 31, 2005 Order adopting the FCC's new standards for designating ETCs, the Commission made it clear that the newly adopted standards did not apply to petitions for ETC status that had already been filed with the Commission.<sup>14</sup> At page 9, the Commission stated:

The Commission will apply the [new criteria], pursuant to the decisions discussed above in this Order, to petitions filed with the Commission **after** the date of this Order . . . . [Emphasis supplied.]

---

<sup>14</sup> *In the Matter of a Commission Investigation to Consider Adopting the Federal Communications Commission's Standards for Designating Eligible Telecommunications Carriers*, Docket No. P-999/M-05-1169, ORDER ADOPTING FCC REQUIREMENTS FOR DESIGNATING ELIGIBLE TELECOMMUNICATIONS CARRIERS, AS MODIFIED (October 31, 2005).

Moreover, in its October 25, 2005 Order in this matter the Commission specifically addressed the question whether ACC's petition would be required to meet the FCC's new standards or the FCC adopted by the Commission as of the date ACC filed its request (July 5, 2005). In that Order the Commission stated:

Prior to the return of the current matter for review, the Commission will issue an Order in Docket No. P-999/M-05-1169 adopting certain Federal Communications Commission (FCC) requirements regarding the designation of eligible telecommunications carriers (ETCs). The Commission finds it appropriate, therefore, to clarify its intent that when ACC's application comes back before the Commission, the Commission will continue its review based on the Commission standards existing at the time of ACC's initial filing, July 5, 2006.

#### **B. Threshold Requirements**

The Commission finds that ACC has shown that it meets the threshold eligibility requirements:

- it is a common carrier;
- it provides each of the nine supported services;
- it will offer and advertise the availability of, and charges for the supported services throughout the service area; and
- its designation is in the public interest.

#### **C. Adequacy of ACC's Ability and Commitment to Serve**

Citizens has claimed that federal law requires that ACC provide universal service to all customers in the areas for which it seeks ETC status. The FCC, however, has repeatedly held that an applicant for ETC designation is not required to demonstrate that it currently provides ubiquitous service throughout its requested service areas. Instead, the FCC has stated that an applicant must merely demonstrate an ability and commitment to provide service upon reasonable request.<sup>15</sup>

In this case, ACC has explained in detail its capabilities and willingness to provide service in the requested service areas consistent with the obligations of an ETC. The Company has described its existing network facilities and has demonstrated the extent of its signal coverage in each of the areas in which designation as an ETC is requested. Moreover, ACC has committed to implementing a multi-step service extension process to provide service to customers in a designated area in the event they do not receive adequate signal coverage and stated that if it determines there is no possibility of providing service without constructing a new cell site, it will report to the Commission the proposed cost of construction, the Company's position on whether the request for service is reasonable, and whether high-cost funds should be expended on the request.

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<sup>15</sup> See *In the Matter of Federal-State Joint Board on Universal Service Western Wireless Corporation Petition for Preemption of an Order of the South Dakota Public Utilities Commission*, CC Docket 96-45, Declaratory Ruling, FCC 00-248, 17 (rel. Aug. 10, 2000).

Consistent with previous Commission Orders in which the Commission has accepted these types of service commitments as sufficient for purposes of granting ETC designation therefore the Commission determines that ACC has adequately shown its ability and willingness to serve customers in the designated areas.

Based on this analysis and findings, the Commission concludes that the Company meets the Commission's requirements for designation as an eligible telecommunications carrier (ETC).

## **VII. Redefinition of Service Areas**

### **A. ACC's Request**

ACC requested the redefinition of the service areas where it will be required to serve in the exchanges served by the Paul Bunyan Rural Telephone Cooperative (Paul Bunyan) and Red River Rural Telephone Association (Red River) because its FCC license restricts its service coverage to some portions of those companies' service areas. ACC sought conditional ETC designation in those areas pending approval of the redefinition of the service areas by both the Commission and the FCC.

### **B. The Department's Comments**

The Department initially recommended that the Commission should not start consideration of this issue until after ACC made it's the supplemental filing. The Department also noted, however, that it found no evidence of deliberate or unintentional cream skimming in ACC's redefinition proposal.

After ACC filed its supplemental comments, the Department recommended that the Commission approve the Company's petition for redefinition and submit the redefinition to the FCC for concurrence.

### **C. Commission Analysis and Action**

None of the parties, including Minnesota Independent Coalition (MIC) and Citizens, the interveners, have objected to ACC's request to redefine the service area requirement in the exchanges served by Paul Bunyan and Red River.

In order to redefine the service area requirement, both the Commission and the FCC are required to consider three factors set forth in recommendations made by the Federal-State Joint Board on Universal Service. The three considerations are: 1) the risk that an ETC applicant will seek designation only in low-cost, high-support areas, a practice known as "cream skimming"; 2) any effect redefinition may have on the rural telephone company's regulatory status; and 3) any additional administrative burdens that may result from redefinition.

Based on the record established in this case, the Commission finds that ACC's request for redefinition does not create a risk of either intentional cream skimming or any unintentional effects of cream skimming, service area redefinition will have no effect upon Paul Bunyan's or Red River's regulatory status, and redefinition will not create any administrative burdens

The Commission will therefore approve the Company's proposal and support the Company's petition to the FCC to concur in the redefinition of the service areas of Paul Bunyan Rural Telephone Cooperative and Red River Rural Telephone Association to the individual wire center level..

### ORDER

1. Based on a finding discussed above in Section V of this Order that American Cellular Corporation (ACC or the Company) meets the Commission's requirements for designation as an eligible telecommunications carrier (ETC), the Commission hereby approves the Company's petition for ETC designation.

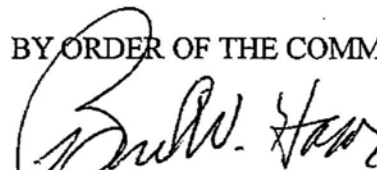
Consistent with that finding and approval, the Commission certifies to the FCC that ACC will use all the federal high-cost support that it will receive for the provision, maintenance and upgrading of facilities and services for which the support is intended pursuant to 47 U.S.C. § 254(e).

2. Based on a finding discussed above at Section VI of this Order that ACC's petition meets the Commission's requirements for redefining service areas, the Commission hereby approves ACC's petition to redefine the service areas of Paul Bunyan Rural Telephone Cooperative and Red River Rural Telephone Association at the wire center level.

Consistent with that finding and approval, the Commission will support the Company's petition to the FCC for concurrence.

3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION



Burl W. Haar  
Executive Secretary

(SEAL)

This document can be made available in alternative formats (i.e., large print or audio tape) by calling 651-201-2202 (voice) or 1-800-627-3529 (MN relay service)

**Exhibit C**

**Minnesota PUC's June 14, 2006 Order Clarifying Prior Orders**



BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendrayer  
Marshall Johnson  
Ken Nickolai  
Thomas Pugh  
Phyllis A. Reha

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of American Cellular  
Corporation's Petition for Designation as an  
Eligible Telecommunications Carrier and  
Redefinition of Rural Telephone Company  
Service Area Requirement

ISSUE DATE: June 14, 2006

DOCKET NO. PT-6458/M-05-1122

ORDER CLARIFYING PRIOR ORDERS

**PROCEDURAL HISTORY**

On February 3, 2006, the Commission issued its ORDER GRANTING ELIGIBLE TELECOMMUNICATIONS CARRIER DESIGNATION AND REDEFINING SERVICE AREA REQUIREMENT. In that Order, the Commission gave its approval for ACC to assume the rights and duties of an Eligible Telecommunications Carrier (ETC) in various parts of Minnesota, including parts of the service area of some rural telephone companies. ETCs are eligible to receive subsidies from the federal Universal Service Fund to provide affordable telecommunications service to "low-income consumers and those in rural, insular, and high cost areas."<sup>1</sup>

On February 6, ACC filed a letter with the Federal Communications Commission (FCC) and the Universal Service Administrative Company (USAC) informing them of the Commission's decision and of ACC's eligibility to receive universal service funds. But USAC has declined to provide subsidies with respect to ACC's operations in 72 wire centers that no other competitive ETC has sought to serve.

On May 16, 2006, ACC asked the Commission to clarify its prior Orders with respect to the 72 wire centers in question.

The Commission met on June 1, 2006, to consider this matter.

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<sup>1</sup> 47 U.S.C. § 254(b)(3).

## **FINDINGS AND CONCLUSIONS**

### **I. Background**

#### **A. Telecommunications Act of 1996**

The federal Telecommunications Act of 1996 (the Act)<sup>2</sup> was designed to open the nation's telecommunications markets to competition. Its universal service provisions were designed to keep competition from driving rates to unaffordable levels for low-income consumers and those in rural, insular, and high cost areas by subsidizing carriers identified as serving such customers.

Congress directed the FCC to work with the states through a Federal-State Joint Board to overhaul existing universal service support systems.<sup>3</sup> The Act authorized the states to determine which carriers qualified for universal service funding. The Act's term for these carriers was "eligible telecommunications carriers" (ETCs).<sup>4</sup> Only carriers that have been designated ETCs are eligible to receive these subsidies.<sup>5</sup>

#### **B. Service Areas and Disaggregation**

A carrier must offer and advertise certain basic services throughout any "service area" for which the carrier is designated an ETC.<sup>6</sup> The Act defines "service area" as:

a geographic area established ... for the purpose of determining universal service obligations and support mechanisms. In the case of an area served by a rural telephone company, "service area" means such company's "study area" unless and until the [FCC] and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c) of this title, establish a different definition of service area for such company.<sup>7</sup>

For rural telephone companies,<sup>8</sup> the Act established a default definition of "study area" that comprises the company's entire service area within a state. This default definition excludes a carrier from being designated to serve as an ETC in part, but not all, of a rural company's service area.

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<sup>2</sup> Pub. L. No 104-104, 110 Stat. 56, codified throughout title 47, United States Code.

<sup>3</sup> 47 U.S.C. § 254.

<sup>4</sup> 47 U.S.C. § 214(e).

<sup>5</sup> 47 C.F.R. § 54.201(a)(1).

<sup>6</sup> 47 U.S.C. § 214(e)(1).

<sup>7</sup> 47 U.S.C. § 214(e)(5); 47 C.F.R. § 54.207.

<sup>8</sup> 47 U.S.C. § 251(f).

But the Act provides a remedy for a carrier that seeks ETC designation within part but not all of a rural company's service area. The carrier may ask to change the default definition and "redefine" the service area into multiple smaller areas; the ETC may then seek ETC designation throughout one or more of the smaller areas.<sup>9</sup>

## **II. ACC's Request for Clarification**

USAC is withholding from ACC the universal service funds to serve 72 wire centers served by seven rural telephone companies, even though the Commission's February 3 Order approved ACC's request to be designated an ETC in these areas. These 72 wire centers are served by seven rural telephone companies that were the subject of prior redefinition Orders: Citizens Telecommunications of Minnesota, Inc. (Citizens), Federated Telephone Cooperative (Federated Telephone), Loretel Systems, Inc. (Loretel), Melrose Telephone Co. (Melrose), Mid-State Telephone Co. (Mid-State), Sprint-Minnesota, Inc. (Sprint) and Twin Valley-Ulen Telephone Co., Inc. (Twin Valley-Ulen).

Apparently USAC is not persuaded that the Commission has redefined the seven rural telephone companies' *entire* service areas into their component wire centers. Rather, ACC understands USAC to interpret the Commission's Orders to say that when the Commission grants a carrier's petition to redefine a service area, the Commission redefines only that portion of the service area sought to be served by the petitioner. Under this interpretation, any ETC that would seek designation in any other part of the rural telephone company's service area, without serving the company's entire service area, would need to request additional redefinition.

ACC therefore asks the Commission to clarify the following:

- The entire service areas of Citizens, Federated Telephone, Loretel, Melrose, Mid-State, Sprint and Twin Valley-Ulen have been redefined into their component wire centers.
- The Commission's February 3 Order designated ACC an ETC within the 72 wire centers in question.

## **III. Commission Action**

The Commission will grant ACC's request.

The Commission first addressed the redefinition issue in deciding whether to disaggregate the service area of Frontier Communications of Minnesota, Inc. (Frontier). Applying the Joint Board's criteria, the Commission assented to the ETC's redefinition request. Moreover, the Commission concluded that where redefinition was warranted, public policy favored redefining a company's entire service area into its component wire centers or exchanges:

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<sup>9</sup> While the FCC's consent is required to redefine a rural telephone company's service area, that consent is deemed granted unless the FCC acts to suspend the redefinition within a specified time. 47 C.F.R. § 54.207(c). The record provides no evidence that any redefinition petitions at issue here are under suspension.

[T]he goals of increasing competition, customer choice, new technologies and innovative services would be served if [ETCs] could serve all or part of Frontier's territory. The Commission recognizes that Frontier currently receives no federal high-cost subsidies and that CLECs would currently be able to receive only the same high-cost subsidies that Frontier is eligible to receive. However, the Commission believes that disaggregating at this time is appropriate to avoid delays in the ability of [ETCs] to receive any high-cost universal funding for which Frontier may become eligible.

Delaying disaggregation will delay the designation of federal ETC status for parts of the Frontier territory and may delay competitive local exchange services in those exchanges. Without disaggregation only a CLEC willing and able to serve the entire Frontier study area will be eligible to be designated a federal ETC and be eligible for any federal high-cost subsidies that become available. Further, delaying disaggregation causes uncertainty about the ability to receive any universal service funds in the future and may delay or discourage CLECs from providing service at all in Frontier's service area.

The Commission also agrees that *the Frontier service area should be disaggregated on an exchange by exchange basis as this would allow CLECs which are designated a federal ETC to receive future federal high-cost funds, if any, for those exchanges in which they serve. Frontier is currently a multi-exchange rural telephone company. Frontier's current Minnesota study area is comprised of 45 separate exchanges located in the Southwestern, South Central and the Twin Cities areas of the state. The most logical way to disaggregate is by individual exchange areas. Redefining Frontier's service area into 45 separate service areas based on individual exchanges for ETC designation will promote competition by eliminating a barrier to entry into the universal services market.*<sup>10</sup>

This policy had informed the Commission's subsequent redefinition decisions, including its decisions redefining the service areas of Citizens, Federated Telephone, Loretel, Melrose, Mid-State, Sprint and Twin Valley-Ulen.<sup>11</sup> It is instructive that none of these companies objected to ACC's ETC

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<sup>10</sup> *In the Matter of an Investigation into the Merits of Disaggregating the Service Area of Frontier Communications of Minnesota, Inc.*, Docket No. P-405/CI-00-79, ORDER DETERMINING THAT FRONTIER'S SERVICE AREA SHOULD BE DISAGGREGATED (September 1, 2000) at 8-9 (emphasis added).

<sup>11</sup> See, for example, *In the Matter of the Petition of Midwest Wireless Communications, LLC, for Designation as an Eligible Telecommunications Carrier (ETC) Under 47 U.S.C. § 214(e)(2)*, Docket No. PT-6153/AM-02-686, ORDER GRANTING APPROVAL AND REQUIRING FURTHER FILING (March 19, 2003); *In the Matter of the Petition of WWC Holding Co., Inc. d/b/a CellularOne for Designation as an Eligible Telecommunications Carrier and Redefinition of Rural Telephone Company Service Area Requirement*, Docket No. P-5695/M-04-226, ORDER APPROVING PETITION FOR ETC DESIGNATION (August 19, 2004).

designation on the grounds that ACC sought to serve an inappropriate part of a company's service area.

The Commission's February 3 Order acknowledged that –

ACC sought immediate ETC designation for the entire study areas or redefined wire centers served by Qwest, Arrowhead, Arvig, Benton, Blackduck, Callaway, CenturyTel of Minnesota, CenturyTel of Northwest Wisconsin, *Citizens/Frontier*, Consolidated, Crosslake, Eagle Valley, East Otter Tail, Emily, *Federated Telephone*, Federated Utilities, Gardonville, Johnson, *Loretel*, Lowry, *Melrose*, *Mid-State*, *Midwest*, Northern, Osakis, Park Region, Peoples, Rothsay, Runestone, Starbuck, *Twin Valley - Ulen*, United, Upsala, Valley, West Central, Wilderness, and Wolverton.<sup>12</sup>

Having granted ACC's petition, the Commission confirms that it has designated ACC as an ETC serving the requested wire centers in each of these company's service areas, including the 72 in dispute.

In the interest of clarity, the Commission attaches to this Order a list of 72 wire centers which it affirms have been redefined as distinct service areas, and for which ACC had been designated an ETC.

### **ORDER**

1. The Commission hereby clarifies its Orders as follows:

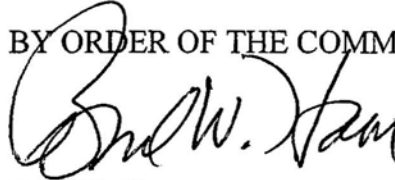
- The entire service areas of Citizens Telecommunications of Minnesota, Inc., Federated Telephone Cooperative, Loretel Systems, Inc., Melrose Telephone Co., Mid-State Telephone Co., Sprint-Minnesota, Inc., and Twin Valley-Ulen Telephone Co., Inc., have been redefined into their component wire centers.
- The Commission's February 3 Order in this docket designates ACC an ETC within the 72 wire centers served by these companies identified in the attached list.

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<sup>12</sup> ORDER GRANTING ELIGIBLE TELECOMMUNICATIONS CARRIER DESIGNATION AND REDEFINING SERVICE AREA REQUIREMENT at 4 (emphasis added).

2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

A handwritten signature in black ink, appearing to read "Burl W. Haar", written over the printed text "BY ORDER OF THE COMMISSION".

Burl W. Haar  
Executive Secretary

(S E A L)

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Seventy-Two Wire Centers in which American Cellular Corporation is Designated  
an Eligible Telecommunication Carrier Pursuant to 47 U.S.C. § 214(e)

Wire Center Code	Wire Center Name	Rural Telephone Company's Name	SAC
ALBOMNXB	ALBORN	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
ASKVMNXA	ASKOV	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
AURRMNXA	AURORA	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
BBTTMNXB	BABBITT	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
BGFSMNXB	BIG FALLS	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
BKTNMNXB	BROOKSTON	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
BRRVMNXB	BEAR RIVER	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
BRSNMNXB	BRIMSON	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
CNLKMNXB	CRANE LAKE	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
CRWLMNXC	CROMWELL	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
DNHMMNXD	DENHAM	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
ELY MNXE	ELY	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
EMBRMNXE	EMBARRASS	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
ERBGMNXE	ERICSBURG	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
FLWDMNXF	FLOODWOOD	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
FNSNMNXF	FINLAYSON	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
GRNYMNXG	GREANEY	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
GRSNMNXG	GARRISON	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
GTWYMNXG	GATEWAY	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
HRMNMNXA	HERMAN	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
HYLKMNXH	HOYT LAKES	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
INFLMNXI	INTERNATIONAL FALLS	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
ISBLMNXI	ISABELLA	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
ISLEMNXI	ISLE	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
JCB SMNXJ	JACOBSON	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
KBTGMNXN	KABETOGAMA	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
KMBRMNXK	KIMBERLY	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
KTRVMNXK	KETTLE RIVER	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
LTFKMNXL	LITTLEFORK	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
MALMMNXM	MALMO	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
MCGRMNXM	MCGREGOR	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
MDLDMNXA	MEADOWLANDS	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
MGR TMNXM	MCGRATH	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
MILCMNXM	MILACA	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
NCSNMNXN	NICKERSON	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123



Wire Center Code	Wire Center Name	Rural Telephone Company's Name	SAC
ONAMMNXO	ONAMIA	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
PALOMNXP	PALO	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
PEASMNXP	PEASE	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
PLSDMNXP	PALISADE	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
RANRMNXR	RANIER	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
SGLKMNXS	STURGEON LAKE	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
TOWRMNXA	TOWER	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
TWHRMNXA	TWO HARBORS	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
WARBMNXA	WARBA	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
WHKNMNXW	WAHKON	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
WHTNMNXW	WHEATON	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
WRGHMNXW	WRIGHT	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
CHOKMNXC	CHOKIO	FEDERATED TEL. COOP.	361390
CRRLMNXA	CORRELL	FEDERATED TEL. COOP.	361390
DNVSMNXD	DANVERS	FEDERATED TEL. COOP.	361390
HLWYMNXA	HOLLOWAY	FEDERATED TEL. COOP.	361390
ODSSMNXO	ODESSA	FEDERATED TEL. COOP.	361390
ADBNMNXA	AUDUBON	LORETEL SYSTEMS, INC.	361443
CRMNMNXC	CORMORANT	LORETEL SYSTEMS, INC.	361443
FRAZMNXF	FRAZEE	LORETEL SYSTEMS, INC.	361443
LKPKMNXL	LAKE PARK	LORETEL SYSTEMS, INC.	361443
GRYEMNXG	GREY EAGLE	MELROSE TEL. CO.	361430
SEDNMNXS	SEDAN	MID STATE TEL. CO. DBA TDS TELECOM	361433
TRRCMNXT	TERRACE	MID STATE TEL. CO. DBA TDS TELECOM	361433
ALXNMNXA	ALEXANDRIA	SPRINT- MINNESOTA, INC.	361456
ALXNMNXL	ALEXANDRIA	SPRINT- MINNESOTA, INC.	361456
ATKNMNXA	AITKIN	SPRINT- MINNESOTA, INC.	361456
BNVLMNXB	BENNETTVILLE	SPRINT- MINNESOTA, INC.	361456
BOVLMNXB	BROWERVILLE	SPRINT- MINNESOTA, INC.	361456
CARLMNXC	CARLOS	SPRINT- MINNESOTA, INC.	361456
CRSBMNXC	CROSBY	SPRINT- MINNESOTA, INC.	361456
DRWDMNXD	DEERWOOD	SPRINT- MINNESOTA, INC.	361456
HMCYMNXH	HOLMES CITY	SPRINT- MINNESOTA, INC.	361456
LNPRMNXL	LONG PRAIRIE	SPRINT- MINNESOTA, INC.	361456
VLRDMNXV	VILLARD	SPRINT- MINNESOTA, INC.	361456
ULENMNXU	ULEN	TWIN VALLEY-ULEN TEL. CO. INC.	361491
WHERMNXW	WHITE EARTH	TWIN VALLEY-ULEN TEL. CO. INC.	361491



**Exhibit D**

**American Cellular Corporation's October 10, 2006 Verified Petition for  
Redefinition of Service Area Requirement for the Citizens and Melrose Study Areas**

**BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION**

LeRoy Koppendraye  
Marshall Johnson  
Kenneth Nickolai  
Thomas Pugh  
Phyllis A. Reha

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of American Cellular Corporation's )  
Petition for Designation as an Eligible )  
Telecommunications Carrier and Redefinition of ) Docket No. PT-6458/M-05-1122  
Rural Telephone Company Service Area )  
Requirement )

**VERIFIED PETITION FOR  
REDEFINITION OF SERVICE AREA REQUIREMENT  
FOR THE CITIZENS AND MELROSE STUDY AREAS**

1. American Cellular Corporation ("ACC") submits this Petition for redefinition of the service area requirement for certain rural telephone company service areas, pursuant to 47 U.S.C. § 214(e) of the Telecommunications Act of 1996 (47 U.S.C. § 151 *et seq.*; the "Act"), Part 54 of the rules and regulations of the Federal Communications Commission ("FCC"), and Minn. Rules 7811.1400 and 7812.1400.

**I. BACKGROUND**

2. On July 5, 2005, ACC filed a petition in this docket for designation as an eligible telecommunications carrier ("ETC") in Minnesota.<sup>1</sup> In the *Verified ETC Petition*, ACC demonstrated its qualifications to be designated as an ETC and that its designation as an ETC in Minnesota would be in the public interest. Among the areas in which ACC sought ETC designation were certain specified wire centers in the study areas of two rural telephone

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<sup>1</sup> *In the Matter of American Cellular Corporation's Petition for Designation as an Eligible Telecommunications Carrier and Redefinition of Rural Telephone Company Service Area Requirement*, Docket No. PT-6458/M-05-1122, *Verified Petition for Designation as an Eligible Telecommunications Carrier and Redefinition of Rural Telephone Company Service Area Requirement for Certain Service Areas*, July 5, 2005 ("Verified ETC Petition").

companies – Citizens Telephone Company of Minnesota d/b/a Frontier Communications of Minnesota (“Citizens”) and Melrose Telephone Company (“Melrose”). *Verified ETC Petition*, ¶ 22, n. 23, Attachment 1.

3. The Commission had already acted to redefine the service area requirement for the Citizens and Melrose study areas to the wire center level in the course of a previous docket, the Midwest Wireless case.<sup>2</sup> The Commission intended that the redefinition would result in each individual wire center being a separate service area for the purposes not only of Midwest Wireless’ ETC designation, but also for the purposes of future competitive ETC designations.<sup>3</sup> The Commission’s redefinition of the service area requirement for the entire Citizens and Melrose study areas became final when the FCC concurred with it in March 2005.<sup>4</sup>

4. In the *Verified ETC Petition*, ACC explicitly relied on the fact that in the Midwest Wireless docket the Commission had previously redefined the service area requirement for the entire Citizens and Melrose study areas to the wire center level. *Verified ETC Petition*, ¶ 22 and Attachment 1. No rural telephone company or other party disputed that the entire Citizens and

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<sup>2</sup> See *In the Matter of Petition of Midwest Wireless Communications L.L.C. for Designation as an Eligible Telecommunications Carrier Under 47 U.S.C. § 214(e)(2)*, Docket No. PT-6153/AM-02-686, *Order Granting Conditional Approval and Requiring Further Filings*, pp. 11-14 (rel. March 19, 2003) (“Midwest Wireless Order”).

<sup>3</sup> See *Petition of the Minnesota Public Utilities Commission for Agreement with Changes in Definition of Service Areas for Exchanges Served by Century-Tel et al.*, CC Docket No. 96-45, *Petition of the Minnesota Public Utilities Commission for FCC Agreement to Redefine the Service Areas of Twelve Minnesota Rural Telephone Companies*, pp. 9-11 (Aug. 7, 2003) (the Commission requested the FCC’s concurrence in “classify[ing] the portion of each wire center in the service area of ... 11 companies [including Citizens and Melrose] as separate service areas for purposes of Midwest Wireless’s ETC designation”). Furthermore, the Commission noted in this Petition to the FCC that the redefinition of the entire study areas of rural telephone companies including Citizens and Melrose to the wire center level was consistent with the Commission’s redefinition determination in a separate proceeding concerning the designation of Minnesota Cellular in certain wire centers of Frontier Communications of Minnesota, in which the Commission had rejected Frontier’s proposed approach to redefinition, because that approach would not result in all of the Frontier wire centers being separate service areas for the purposes of future competitive ETC applicants. *Id.*, pp. 8-9.

<sup>4</sup> *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Report and Order*, FCC 05-46, ¶¶ 76-79 (rel. Mar. 17, 2005) (“Federal ETC Order”).

Melrose study areas had already been redefined to the wire center level as a result of the Midwest Wireless case.

5. The Commission has designated ACC as an ETC, including the requested Citizens and Melrose wire centers.<sup>5</sup> The Commission did not explicitly address redefinition with regard to the Citizens and Melrose study areas because they had already been entirely redefined to the wire center level. *Id.*, p. 4 (describing ACC's request for designation in entire study areas or "redefined wire centers"). The Citizens and Melrose wire centers in which ACC was designated as an ETC are not the same wire centers in which Midwest Wireless was designated as an ETC.

6. ACC timely submitted a copy of the *Designation Order* and the required line count data to the Universal Service Administrative Company ("USAC"), the entity that administers federal universal service funding, so that it could receive federal support pursuant to its ETC designation from the Commission. However, USAC has refused to disburse support to ACC for the designated Citizens and Melrose wire centers. USAC's position was that the *Midwest Wireless Order* redefined only those Citizens and Melrose wire centers where Midwest Wireless was designated as an ETC, not the other Citizens and Melrose wire centers in which ACC was later designated.

7. At ACC's request, the Commission issued its *Clarifying Order*, affirming that the entire Citizens and Melrose study areas had previously been redefined to the wire center level,

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<sup>5</sup> *In the Matter of American Cellular Corporation's Petition for Designation as an Eligible Telecommunications Carrier and Redefinition of Rural Telephone Company Service Area Requirement*, Docket No. PT-6458/M-05-1122, *Order Granting Eligible Telecommunications Carrier Designation and Redefining Service Area Requirement* (rel. Feb. 3, 2006) ("*Designation Order*").

and affirming that ACC was designated as an ETC in the Citizens and Melrose wire centers where it had requested and received designation.<sup>6</sup>

8. In response to the *Clarifying Order*, USAC conducted a second review of the redefinition status of the Citizens and Melrose wire centers. However, USAC still maintains that the Citizens and Melrose study areas were only redefined to include the wire centers in which Midwest Wireless was designated, not the wire centers in which ACC was designated as an ETC in this docket.<sup>7</sup> Thus, notwithstanding the *Clarifying Order*, USAC has not disbursed federal support to ACC for the Citizens and Melrose wire centers in which the Commission has designated ACC as an ETC.

9. ACC has determined the most practicable way for it to receive federal support for the Citizens and Melrose wire centers in which it has been designated is for the Commission to issue an order explicitly redefining the service area requirement for the entire Citizens and Melrose study areas to the wire center level and reaffirming ACC's designation as an ETC as to the Citizens and Melrose wire centers. ACC hereby petitions the Commission for such an order. ACC will then petition the FCC for concurrence with the redefinition. When this process is complete, there should be no more impediments to ACC's receipt of federal support from USAC for the Citizens and Melrose wire centers where ACC has been designated as an ETC.

## II. JURISDICTION

10. ACC's provision of wireless telecommunications services is licensed and regulated by the FCC. However, the Commission has the jurisdiction and authority not only to

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<sup>6</sup> In the *Matter of American Cellular Corporation's Petition for Designation as an Eligible Telecommunications Carrier and Redefinition of Rural Telephone Company Service Area Requirement*, Docket No. PT-6458/M-05-1122, *Order Clarifying Prior Orders*, pp. 3-5 (rel. June 14, 2006) ("*Clarifying Order*").

<sup>7</sup> E-mail from Michael Spead, USAC, to Mark Ayotte (Sept. 25, 2006) (a copy is attached as **Exhibit A**).

designate ACC as an ETC in its requested ETC service areas (which it already has done), but also to grant ACC's request for redefinition of the service area requirement. 47 U.S.C. § 214(e)(2) and (c)(5); 47 C.F.R. § 54.207(b)-(c); Minn. Rules 7811.1400, subp. 2 and 7812.1400, subp. 2.

### **III. REDEFINITION OF THE SERVICE AREA REQUIREMENT FOR THE CITIZENS AND MELROSE STUDY AREAS**

11. ACC requests that the Commission redefine the service area requirement for purposes of facilitating its receipt of federal universal service support in specific wire centers in the Citizens and Melrose study areas. Because of the limitations of its FCC license to provide wireless service, ACC is able to serve certain wire centers within each of these companies' study areas, but is not able to serve their entire study areas. Absent redefinition of the service area requirement as requested herein, USAC will not disburse support to ACC for the wire centers in the Citizens and Melrose study areas where ACC has already been designated as an ETC. The specific study areas and wire centers for which redefinition is requested are set forth in **Exhibit B**.

#### **A. The Legal Requirements for Redefinition of the Service Area Requirement**

12. A competitive ETC must demonstrate its ability and willingness to provide service throughout the "service area" of the incumbent telephone company in order to be designated there. 47 U.S.C. § 214(e). An incumbent's "service area" is a geographic area established by a State commission for the purposes of determining universal service obligations and support mechanisms. 47 U.S.C. § 214(e)(5); *see also* Minn. Rules 7811.1400, subp. 3 and 7812.1400, subp. 3. In an area served by a rural telephone company, the term "service area" means the company's "study area" unless and until the State commission and the FCC act in concert to establish a different service area definition, a process referred to as "redefinition." 47

U.S.C. § 214(c)(5); 47 C.F.R. § 54.207(b); Minn. Rules 7811.1400, subp. 3 and 7812.1400, subp.

3. A “study area” usually consists of all of a rural telephone company’s certified exchange areas in a given State, so unless redefinition is granted, a competitive carrier may only be designated as an ETC in the entire study area, or none of it. *Clarifying Order*, p. 2.

13. In considering a request to redefine the service area requirement, federal law requires the Commission to consider three factors identified by the Federal-State Joint Board on Universal Service (the “Joint Board”): 1) the risk that a competitive provider may try to target service to only low-cost, high-support areas (referred to as “creamskimming”); 2) any potential impact on the regulatory status of the rural telephone company; and 3) the possibility that redefinition could create administrative burdens for the rural telephone company.<sup>8</sup> The FCC has identified two aspects of creamskimming: intentional creamskimming and unintended effects of creamskimming, which can occur when the lowest cost portions of the study area are the only portions of the study area covered by the competitive ETC applicant’s license. *Virginia Cellular*, ¶¶ 32-33. The FCC has endorsed the use of a population density analysis to assess the risk of the unintended effects of creamskimming. *Id.* at ¶¶ 32-35, 42. If the population density of the wire centers where the competitive ETC will be designated is not substantially higher than the population density of the remaining wire centers in the study area, the designation will not have the effects of creamskimming, because the ETC will not be serving only low-cost areas to the exclusion of high-cost areas. *Id.* at ¶ 34.

14. Moreover, the risk of creamskimming has been virtually eliminated by the FCC’s implementation of the disaggregation mechanism set forth in 47 C.F.R. § 54.315. The FCC

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<sup>8</sup> *In the Matter of Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, Memorandum Opinion and Order, FCC 03-338, ¶¶ 9, 41 (rel. Jan. 22, 2004) (“*Virginia Cellular*”).

offered rural carriers the option to “disaggregate” – i.e., target – the federal universal service support amounts they receive to the higher-cost portions of their study areas. Doing so ensures that a competitive ETC receives less per-line support in low-cost areas and, conversely, ensures that a competitive ETC only receives higher per-line support in truly high-cost areas. The FCC has concluded that the disaggregation mechanism has “substantially eliminated” any creamskimming concerns.<sup>9</sup>

15. The remaining two Joint Board factors, the potential impact on the rural telephone company’s regulatory status, and the possibility that redefinition could create administrative burdens for the company, do not impede redefinition. Redefinition has no effect whatsoever on the regulatory status of a rural telephone company, including the amount of per-line support it receives, so the second factor cannot impede redefinition. *Virginia Cellular*, ¶ 43. Similarly, redefinition does not affect the way a rural carrier calculates its embedded costs and does not impose any other additional administrative burdens. *Id.* at ¶ 44.

16. The FCC has found that redefinition of the service area requirement is necessary and appropriate to facilitate competition and serve the universal service policy objectives of the Act. *Federal ETC Order*, ¶ 190. In particular, redefinition of the service area requirement from the study area to the wire center level facilitates local competition by enabling a new ETC to be designated in and serve relatively smaller areas.<sup>10</sup> Redefinition fosters competition, comports

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<sup>9</sup> *In the Matter of Federal-State Joint Board on Universal Service Petitions for Reconsideration of Western Wireless Corporation’s Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, CC Docket No. 96-45, *Order on Reconsideration*, FCC 01-311, ¶ 12 (rel. Oct. 19, 2001).

<sup>10</sup> *In the Matter of Petition for Agreement With Designation of Rural Company Eligible Telecommunications Carrier Service Areas and for Approval of the Use of Disaggregation of Study Areas of the Purpose of Distributing Portable Federal Universal Service Support*, CC Docket No. 96-45, *Memorandum Opinion and Order*, DA 99-1844, ¶ 8 (rel. Sept. 9, 1999).



with the goals of the Act and the FCC's directives, and enables new ETCs to bring new services and new technologies to consumers in the rural areas.

**B. The Commission Has Previously Determined to Redefine the Service Area Requirement for Citizens and Melrose**

17. The Commission has already issued two orders addressing the Citizens and Melrose redefinition – the *Midwest Wireless Order* and the *Clarifying Order*. In the *Midwest Wireless Order*, the Commission considered the three Joint Board factors and determined that redefinition was appropriate. *Midwest Wireless Order*, pp. 13-14. In the *Clarifying Order*, the Commission determined that the requested redefinition was in the public interest, and noted that none of the rural carriers in whose study areas ACC sought designation opposed ACC's ETC designation. *Clarifying Order*, pp. 3-5.

18. The reasons for redefining the service area requirement for Citizens and Melrose remain as compelling now as when the Commission redefined the service area requirement for Citizens and Melrose in the *Midwest Wireless Order*. Accordingly, there should be no obstacles to the Commission doing so again in response to this Petition. Indeed, granting the requested redefinition would not only be consistent with the prior redefinition decision, but would also effectuate the Commission's prior decision in the *Designation Order* to designate ACC as an ETC.

**C. ACC's Request for Redefinition Does Not Create a Risk of Either Intentional Creamskimming or Unintentional Effects of Creamskimming**

19. In the *Designation Order*, the Commission designated ACC as an ETC in each wire center of the Citizens and Melrose study areas that are fully located within ACC's FCC-licensed boundaries. ACC is seeking redefinition only in areas where it is not licensed by the

FCC to serve the entire study area of these carriers. ACC only seeks redefinition of the service area from the study area to the full wire center level, not to the partial wire center level.<sup>11</sup>

20. As described above, intentional creamskimming concerns are eliminated when a wireless carrier seeks ETC designation in all of the wire centers within its FCC-licensed boundaries. *Virginia Cellular*, ¶ 32. ACC is seeking designation for all wire centers entirely located within the scope of its licensed boundaries in each study area, so the Commission should conclude there is no evidence of any intentional creamskimming.

21. There is no risk of any effect of unintentional creamskimming for the Citizens and Melrose areas based on a population density analysis. *Virginia Cellular*, ¶¶ 34, 42; *Federal ETC Order*, ¶¶ 49-50. Using publicly available information regarding the geographic area and population of each wire center, ACC has calculated the population density per square mile for the Citizens and Melrose wire centers in which the Company is designated as an ETC and for the remaining Citizens and Melrose wire centers. A table comparing these population densities is included as **Exhibit C**.

22. The population density analysis set forth in **Exhibit C** confirms that no effects of unintentional creamskimming will result from ACC's redefinition request in this proceeding. Specifically, in both the Citizens and the Melrose study areas, the population density in the wire centers in which ACC is an ETC is lower than the population density in the remaining wire centers.

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<sup>11</sup> The FCC has determined that partial wire center redefinition is not consistent with the public interest. *In the Matter of Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45. *Memorandum Opinion and Order*, FCC 04-37, ¶ 33 (rel. Apr. 12, 2004). Because all of the wire centers for which ACC is seeking redefinition are located entirely within its FCC-licensed service area boundaries, the concerns addressed in *Highland Cellular* are not present here.

23. Moreover, the risk of creamskimming in this case is substantially eliminated because Citizens and Melrose have both disaggregated support.<sup>12</sup> This ensures that ACC will receive less per-line support in lower-cost areas and will only receive higher per-line support in areas that are truly higher in cost.

**D. Redefinition Will Not Affect Citizens' or Melrose's Regulatory Status as Rural Telephone Companies**

24. Redefinition will have no effect upon Citizens' or Melrose's regulatory status as rural telephone companies. The second Joint Board factor, whether redefinition will have any effect upon the unique status enjoyed by rural carriers under the Act, is not implicated in this case. Nothing in the redefinition process will affect Citizens' and Melrose's statutory exemptions from interconnection, unbundling and resale requirements under Section 251(c) or will compromise or impair the unique treatment of these companies as rural telephone companies under Section 251(f) of the Act.<sup>13</sup>

25. The FCC has confirmed that the redefinition process does not affect the way in which rural telephone companies calculate the amount of per-line support they receive:

(1) the high-cost universal service mechanisms support all lines served by ETCs in rural areas; (2) receipt of high-cost support by [the applicant] will not affect the total amount of high-cost support that the incumbent rural telephone company receives; (3) to the extent that [the applicant] or any future competitive ETC captures incumbent rural telephone company lines to existing wireline subscribers, it will have no impact on the amount of universal service support available to the incumbent rural telephone companies for those lines they continue to serve; and (4) redefining the service areas of the affected rural telephone companies will not change the amount of universal service support that is available to these incumbents.

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<sup>12</sup> See <http://www.universalservice.org/hc/tools/disaggregation/checklist/minnesota.xls>.

<sup>13</sup> See also *In the Matter of WWC Holding Co. Inc. d/b/a CellularOne Petition for Designation as an Eligible Telecommunications Carrier and Redefinition of Rural Telephone Company Service Area Requirement*, Docket No. P-5695/M-04-226, *Order Approving Petition for ETC Designation*, p. 9 (rel. Aug. 19, 2004) ("*Western Wireless Order*") ("there was no evidence of any effect of redefinition on the rural carriers' regulatory status").

\* \* \*

Under the Commission's rules, receipt of high-cost support by [a competitive ETC] will not affect the total amount of high-cost support that the incumbent rural telephone company receives.

*Virginia Cellular*, ¶¶ 41, 43.

26. Rather, the redefinition process only modifies the service area requirement for purposes of designating a competitive ETC. Thus, Citizens and Melrose will retain their unique regulatory status as rural telephone companies under the Act consistent with the Joint Board's recommendations.

**E. Redefinition Will Not Create Any Administrative Burdens**

27. The final Joint Board factor, whether redefinition of the service area requirement will result in any administrative burdens, also does not stand in the way of the requested redefinition. A rural telephone company's receipt of universal service support is currently based on its embedded costs determined at the study area level.<sup>14</sup> The FCC has confirmed that redefinition does not affect this calculation or create any additional administrative burdens:

[R]edefining the rural telephone company service areas as proposed will not require the rural telephone companies to determine their costs on a basis other than the study area level. Rather, the redefinition merely enables competitive ETCs to serve areas that are smaller than the entire rural telephone company study area. Our decision to redefine the service areas does not modify the existing rules applicable to rural telephone companies for calculating costs on a study area basis, nor, as a practical matter, the manner in which they will comply with these rules. Therefore, we find that the concern of the Joint Board that redefining rural service areas would impose additional administrative burdens on affected rural telephone companies is not at issue here.

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<sup>14</sup> *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Report and Order*, FCC 97-157, ¶ 189 (rel. May 8, 1997) ("Universal Service Order").

*Virginia Cellular*, ¶ 44 (emphasis added). Consistent with the FCC's conclusion, redefinition of the Citizens and Melrose areas in this proceeding will have no effect on those companies' calculation of their costs and will not create any additional burdens.<sup>15</sup>

28. The Commission can, therefore, proceed to redefine the service area requirement as outlined above while appropriately taking into account the three factors noted by the Joint Board and adopted by the FCC.

**F. Redefinition is Necessary to Promote Competition and Advance Universal Service**

29. Redefinition of the service area requirement for Citizens and Melrose is necessary for the promotion of competition and the advancement of universal service. In this case, ACC will not be able to receive universal service support for the Citizens and Melrose wire centers, even though the Commission has designated ACC as an ETC, unless the redefinition request is granted. Thus, redefinition is in the public interest because it will enable ACC to receive support that will allow ACC to bring new services and new technologies to customers of Citizens and Melrose.

30. This Commission has recognized that redefinition removes regulatory barriers and promotes competition. For example, in the *Clarifying Order*, the Commission reiterated that “[d]elaying disaggregation [*i.e.*, redefinition] will delay the designation of federal ETC status for parts of the rural telephone company's territory and may delay competitive local exchange services in those exchanges....Further, delaying disaggregation [*i.e.*, redefinition] causes uncertainty about the ability to receive any universal service funds in the future and may delay or

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<sup>15</sup> See also *Western Wireless Order*, p. 9 (“there was no evidence of ... additional administrative burdens placed on local exchange carriers as a result of ... redefinition of the service area.”)

discourage CLECs from providing service at all in [the rural telephone company's service area."<sup>16</sup>

31. Redefinition of the service area requirement for the entire Citizens and Melrose study areas to the individual wire center level will foster competition in Minnesota, because it will enable ACC to offer competitive universal services to the customers of these carriers. This fostering of competition comports with the goals of the Act and the FCC's directives. Unless the Commission approves of the redefinition, the customers in the wire centers ACC desires to serve will be denied all the benefits of competition that Congress, the FCC, and this Commission have sought to foster. Accordingly, this Commission should order that the entire study areas of Citizens and Melrose be redefined to the wire center level for the purpose of allowing ACC to receive universal service support for the wire centers where it is designated as an ETC, as identified on **Exhibit B**.

32. Pursuant to 47 C.F.R. § 54.207, ACC will petition the FCC for concurrence with the service area redefinition ordered in this proceeding.

#### **IV. OTHER REQUIRED DISCLOSURES**

33. A person wishing to challenge this Petition's form and completeness must do so within ten days of its filing pursuant to Minn. Rule 7811.1400, subp. 6.

34. A person wishing to comment on this Petition must file initial comments within 20 days of its filing pursuant to Minn. Rule 7811.1400, subp. 8. Initial comments must include a recommendation on whether the filing requires a contested case proceeding, expedited proceeding, or some other procedure, together with reasons for the recommendation. *Id.*

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<sup>16</sup> *Clarifying Order*, p. 4, quoting *In the Matter of an Investigation into the Merits of Disaggregating the Service Area of Frontier Communications of Minnesota, Inc.*, Docket No. P-405/CI-00-79, *Order Determining That Frontier's Service Area Should Be Disaggregated*, pp. 8-9 (rel. Sept. 1, 2000).

35. If a person who wishes to file initial comments is not entitled to intervene in a commission proceeding as of right and desires full party status, the person shall file a petition to intervene pursuant to Minn. Rule 7829.0800, or Minn. Rule 1400.6200 if the matter is before an administrative law judge, before the comment period expires. Minn. Rule. 7811.1400, subp. 9. The intervention petition may be combined with comments on the filing. *Id.*

36. Commenting parties have ten days from the expiration of the original comment period to file reply comments. Minn. Rule 7811.1400, subp. 10. Reply comments must be limited in scope to the issues raised in the initial comments. *Id.*

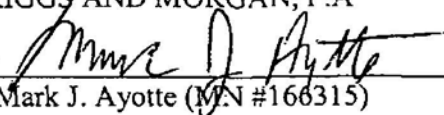
## V. CONCLUSION

37. Based on the foregoing, ACC respectfully requests that the Commission promptly grant this Petition and act to redefine the service area requirement for the entire Citizens and Melrose study areas to the wire center level and reaffirm ACC's ETC designation in the specified wire centers as described above.

Respectfully submitted,

BRIGGS AND MORGAN, P.A.

By



Mark J. Ayotte (MN #166315)

Andrew M. Carlson (MN #0284828)

2200 IDS Center

80 South Eighth Street

Minneapolis, Minnesota 55402

(612) 977-8400

(612) 977-8650 (facsimile)

**ATTORNEYS FOR  
AMERICAN CELLULAR CORPORATION**

Dated: October 6, 2006

**EXHIBIT A**

**September 25, 2006 E-mail from Michael Spead, USAC, to Mark Ayotte**



**Ayotte, Mark**

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**From:** Michael Spead [mspead@usac.org]  
**Sent:** Monday, September 25, 2006 12:01 PM  
**To:** Ayotte, Mark  
**Cc:** Craig Davis; David Capozzi  
**Subject:** ACC Minnesota Eligibility Adjustments

USAC High Cost staff met with the general counsel. USAC High Cost staff and the general counsel are in agreement on the following:

- 1) The Midwest Wireless redefinition specifically identifies certain wire centers that need to be redefined for each rural ILECs listed, with the exception of CenturyTel. CenturyTel was redefined at the study area level.
- 2) The Western Wireless redefinition petition by the MN PUC specifically requests redefinition at the study area level for all associated rural ILECs. This order was not previously interpreted in this manner. Therefore, ACC's eligibility was not processed completely.
- 3) Paul Bunyon and Red River Rural Telephone areas should be redefined at the wire center level for the wire centers served by ACC.

Based on these determinations, USAC High Cost staff has:

- 1) Reviewed and revised the ETC eligibility template for ACC, based on the Midwest Wireless and Western Wireless redefinitions;
- 2) Processed the redefinition of Paul Bunyon and Red River Rural Telephone; and
- 3) Updated this new eligibility into our payment systems for the September disbursement, which goes out at the end of October.

Based on USAC's actions, ACC should request redefinition of the following areas not previously redefined in order to receive eligibility in all areas in which ACC currently has ETC status in the state of Minnesota:

- 1) Melrose Telephone Company
- 2) Citizens Tel. Co of Minnesota d/b/a Frontier Comm. of Minnesota

We apologize for any inconvenience that this may have caused and thank you for working with us to resolve this matter.

If you have any questions, please let me know.

Many Thanks,

Mike

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This email has been scanned for all viruses by the MessageLabs SkyScan service. (<http://www.messagelabs.com>)

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**Exhibit A**

10/5/2006

## EXHIBIT B

Rural Telephone Company Wire Centers in Which ACC Has Been Designated as an ETC  
and for which ACC Now Seeks Redefinition to the Wire Center Level for the Entire Study

### Area

<u>Rural Telephone Company</u>	<u>Wire Center Name</u>	<u>CLLI Code</u>
Citizens Tel. Co. of Minnesota d/b/a Frontier Comm. of Minnesota  SAC 361123	Alborn	ALBOMNXB
	Askov	ASKVMNXB
	Aurora	AURRMNXA
	Babbitt	BBTTMNXB
	Big Falls	BGFSMNXB
	Brookstone	BKTNMNXB
	Bear River	BRRVMNXB
	Brimson	BRSNMNXB
	Crane Lake	CNLKMNXB
	Cromwell	CRWLMNXC
	Denham	DNHMMNXD
	Ely	ELY MNXE
	Embarrass	EMBRMNXE
	Ericsburg	ERBGMNXE
	Floodwood	FLWDMNXF
	Finlayson	FNSNMNXF
	Greaney	GRNYMNXG
	Garrison	GRSNMNXG
	Gateway	GTWYMNXG
	Herman	HRMNMNXA
	Hoyt Lakes	HYLKMNXH
	International Falls	INFLMNXI
	Isabella Isle	ISBLMNXI
	Isle	ISLEMNXI
	Jacobson	JCBSMNXI
	Kabetogama	KBTGMNXN
	Kimberly	KMBRMNXK
	Kettle River	KTRVMNXK
	Little Fork	LTFKMNXL
	Malmö	MALMMNXM
	McGregor	MCGRMNXM
	Meadowlands	MDLDMNXA
	McGrath	MGRTMNXM
	Milaca	MILCMNXM
	Nickerson	NCSNMNXN
	Onamia	ONAMMNXO
	Palo	PALOMNXP
	Pease	PEASMNXP
	Palisade	PLSDMNXP
	Ranier	RANRMNXR

Rural Telephone Company	Wire Center Name	CLLI Code
	Sturgeon Lake	SGLKMNXS
	Tower	TOWRMNXA
	Two Harbors	TWHRMNXA
	Warba	WARBMNXA
	Wahkon	WHKNMNXW
	Wheaton	WHTNMNXW
	Wright	WRGHMNXW
McLrose Telephone Company	Grey Eagle	GRYEMNXG
SAC 361430		

### EXHIBIT C

#### Population Density Analysis

Study Area Name	SAC	2005 Population	Area (Square Miles)	2005 Population Density	
Citizens Tel. Co. of Minnesota d/b/a Frontier Comm. of Minnesota	361123	260,389	14,515	17.94	All Wire Centers
		82,805	9,477	8.74	Wire Centers Where Designated
		177,584	5,038	35.25	Wire Centers Where Designation Not Sought
Melrose Telephone Company	361430	21,687	526	41.23	All Wire Centers
		1,327	39	34.03	Wire Centers Where Designated
		20,360	487	41.81	Wire Centers Where Designation Not Sought

**EXHIBIT D**

**Verification**

**BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION**

LeRoy Koppendraye  
Marshall Johnson  
Kenneth Nickolai  
Thomas Pugh  
Phyllis A. Reha

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of American Cellular Corporation's )  
Petition for Designation as an Eligible )  
Telecommunications Carrier and Redefinition of ) Docket No. PT-6458/M-05-1122  
Rural Telephone Company Service Area )  
Requirement )

**CERTIFICATION OF THOMAS A. COATES**

I, the undersigned, Thomas A. Coates, do hereby verify as follows:


1. I serve as Vice President, Corporate Development for American Cellular Corporation.

2. This Certification is submitted in support of ACC's Petition for Redefinition of Rural Telephone Company Service Area Requirement for the Citizens and Melrose study areas ("Petition").

3. I further declare that I have reviewed the Petition and that the facts stated therein, of which I have personal knowledge, are true and correct to the best of my knowledge and belief.

4. I certify that the foregoing is true and correct to the best of my knowledge, information and belief.

Date: October 5, 2006

  
Thomas A. Coates

**AFFIDAVIT OF SERVICE**

STATE OF MINNESOTA    )  
                                  ) ss.  
COUNTY OF HENNEPIN    )

In the Matter of American Cellular Corporation's  
Petition for Designation as an Eligible  
Telecommunications Carrier and Redefinition of  
Rural Telephone Company Service Area Requirement

Docket No. PT-6458/M-05-1122

Sandra J. Cambronne, being first duly sworn on oath, deposes and states that on the 6<sup>th</sup> day of October, 2006, copies of American Cellular Corporation's Verified Petition for Redefinition of Service Area Requirement for the Citizens and Melrose Study Areas were served by U.S. Mail upon:

Dr. Burl W. Haar [original and 15 copies]  
Executive Secretary  
MN Public Utilities Commission  
121 Seventh Place E, Suite 350  
Saint Paul, MN 55101

Linda Chavez [4 copies]  
Telephone Docket Coordinator  
Minnesota Department of Commerce  
85 Seventh Place East, Suite 500  
Saint Paul, MN 55101

Katherine Doherty  
Rate Analyst  
Minnesota Department of Commerce  
85 Seventh Place East, Suite 500  
Saint Paul, MN 55101-2198

Julia Anderson  
MN Office of the Attorney General  
1400 BRM Tower  
445 Minnesota Street  
Saint Paul, MN 55101-2131

Curt Nelson  
OAG-RUD  
900 BRM Tower  
445 Minnesota Street  
Saint Paul, MN 55101

Kevin Saville  
Citizens/Frontier Communications  
2378 Wilshire Blvd.  
Mound, MN 55364

M. Cecilia Ray  
Moss & Barnett, PA  
4800 Norwest Center  
90 South Seventh Street  
Minneapolis, MN 55402

  
Sandra J. Cambronne

Subscribed and sworn to before  
me this 6<sup>th</sup> day of October, 2006

  
NOTARY PUBLIC



BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye  
Marshall Johnson  
Ken Nickolai  
Thomas Pugh  
Phyllis A. Reha

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of American Cellular  
Corporation's Petition for Designation as an  
Eligible Telecommunications Carrier and  
Redefinition of Rural Telephone Company  
Service Area Requirement

ISSUE DATE: June 14, 2006

DOCKET NO. PT-6458/M-05-1122

ORDER CLARIFYING PRIOR ORDERS

**PROCEDURAL HISTORY**

On February 3, 2006, the Commission issued its ORDER GRANTING ELIGIBLE TELECOMMUNICATIONS CARRIER DESIGNATION AND REDEFINING SERVICE AREA REQUIREMENT. In that Order, the Commission gave its approval for ACC to assume the rights and duties of an Eligible Telecommunications Carrier (ETC) in various parts of Minnesota, including parts of the service area of some rural telephone companies. ETCs are eligible to receive subsidies from the federal Universal Service Fund to provide affordable telecommunications service to "low-income consumers and those in rural, insular, and high cost areas."<sup>1</sup>

On February 6, ACC filed a letter with the Federal Communications Commission (FCC) and the Universal Service Administrative Company (USAC) informing them of the Commission's decision and of ACC's eligibility to receive universal service funds. But USAC has declined to provide subsidies with respect to ACC's operations in 72 wire centers that no other competitive ETC has sought to serve.

On May 16, 2006, ACC asked the Commission to clarify its prior Orders with respect to the 72 wire centers in question.

The Commission met on June 1, 2006, to consider this matter.

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<sup>1</sup> 47 U.S.C. § 254(b)(3).

## **FINDINGS AND CONCLUSIONS**

### **I. Background**

#### **A. Telecommunications Act of 1996**

The federal Telecommunications Act of 1996 (the Act)<sup>2</sup> was designed to open the nation's telecommunications markets to competition. Its universal service provisions were designed to keep competition from driving rates to unaffordable levels for low-income consumers and those in rural, insular, and high cost areas by subsidizing carriers identified as serving such customers.

Congress directed the FCC to work with the states through a Federal-State Joint Board to overhaul existing universal service support systems.<sup>3</sup> The Act authorized the states to determine which carriers qualified for universal service funding. The Act's term for these carriers was "eligible telecommunications carriers" (ETCs).<sup>4</sup> Only carriers that have been designated ETCs are eligible to receive these subsidies.<sup>5</sup>

#### **B. Service Areas and Disaggregation**

A carrier must offer and advertise certain basic services throughout any "service area" for which the carrier is designated an ETC.<sup>6</sup> The Act defines "service area" as:

a geographic area established ... for the purpose of determining universal service obligations and support mechanisms. In the case of an area served by a rural telephone company, "service area" means such company's "study area" unless and until the [FCC] and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c) of this title, establish a different definition of service area for such company.<sup>7</sup>

For rural telephone companies,<sup>8</sup> the Act established a default definition of "study area" that comprises the company's entire service area within a state. This default definition excludes a carrier from being designated to serve as an ETC in part, but not all, of a rural company's service area.

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<sup>2</sup> Pub. L. No 104-104, 110 Stat. 56, codified throughout title 47, United States Code.

<sup>3</sup> 47 U.S.C. § 254.

<sup>4</sup> 47 U.S.C. § 214(e).

<sup>5</sup> 47 C.F.R. § 54.201(a)(1).

<sup>6</sup> 47 U.S.C. § 214(e)(1).

<sup>7</sup> 47 U.S.C. § 214(e)(5); 47 C.F.R. § 54.207.

<sup>8</sup> 47 U.S.C. § 251(f).



But the Act provides a remedy for a carrier that seeks ETC designation within part but not all of a rural company's service area. The carrier may ask to change the default definition and "redefine" the service area into multiple smaller areas; the ETC may then seek ETC designation throughout one or more of the smaller areas.<sup>9</sup>

## **II. ACC's Request for Clarification**

USAC is withholding from ACC the universal service funds to serve 72 wire centers served by seven rural telephone companies, even though the Commission's February 3 Order approved ACC's request to be designated an ETC in these areas. These 72 wire centers are served by seven rural telephone companies that were the subject of prior redefinition Orders: Citizens Telecommunications of Minnesota, Inc. (Citizens), Federated Telephone Cooperative (Federated Telephone), Loretel Systems, Inc. (Loretel), Melrose Telephone Co. (Melrose), Mid-State Telephone Co. (Mid-State), Sprint-Minnesota, Inc. (Sprint) and Twin Valley-Ulen Telephone Co., Inc. (Twin Valley-Ulen).

Apparently USAC is not persuaded that the Commission has redefined the seven rural telephone companies' *entire* service areas into their component wire centers. Rather, ACC understands USAC to interpret the Commission's Orders to say that when the Commission grants a carrier's petition to redefine a service area, the Commission redefines only that portion of the service area sought to be served by the petitioner. Under this interpretation, any ETC that would seek designation in any other part of the rural telephone company's service area, without serving the company's entire service area, would need to request additional redefinition.

ACC therefore asks the Commission to clarify the following:

- The entire service areas of Citizens, Federated Telephone, Loretel, Melrose, Mid-State, Sprint and Twin Valley-Ulen have been redefined into their component wire centers.
- The Commission's February 3 Order designated ACC an ETC within the 72 wire centers in question.

## **III. Commission Action**

The Commission will grant ACC's request.

The Commission first addressed the redefinition issue in deciding whether to disaggregate the service area of Frontier Communications of Minnesota, Inc. (Frontier). Applying the Joint Board's criteria, the Commission assented to the ETC's redefinition request. Moreover, the Commission concluded that where redefinition was warranted, public policy favored redefining a company's entire service area into its component wire centers or exchanges:

---

<sup>9</sup> While the FCC's consent is required to redefine a rural telephone company's service area, that consent is deemed granted unless the FCC acts to suspend the redefinition within a specified time. 47 C.F.R. § 54.207(c). The record provides no evidence that any redefinition petitions at issue here are under suspension.

[T]he goals of increasing competition, customer choice, new technologies and innovative services would be served if [ETCs] could serve all or part of Frontier's territory. The Commission recognizes that Frontier currently receives no federal high-cost subsidies and that CLECs would currently be able to receive only the same high-cost subsidies that Frontier is eligible to receive. However, the Commission believes that disaggregating at this time is appropriate to avoid delays in the ability of [ETCs] to receive any high-cost universal funding for which Frontier may become eligible.

Delaying disaggregation will delay the designation of federal ETC status for parts of the Frontier territory and may delay competitive local exchange services in those exchanges. Without disaggregation only a CLEC willing and able to serve the entire Frontier study area will be eligible to be designated a federal ETC and be eligible for any federal high-cost subsidies that become available. Further, delaying disaggregation causes uncertainty about the ability to receive any universal service funds in the future and may delay or discourage CLECs from providing service at all in Frontier's service area.

The Commission also agrees that *the Frontier service area should be disaggregated on an exchange by exchange basis as this would allow CLECs which are designated a federal ETC to receive future federal high-cost funds, if any, for those exchanges in which they serve. Frontier is currently a multi-exchange rural telephone company. Frontier's current Minnesota study area is comprised of 45 separate exchanges located in the Southwestern, South Central and the Twin Cities areas of the state. The most logical way to disaggregate is by individual exchange areas. Redefining Frontier's service area into 45 separate service areas based on individual exchanges for ETC designation will promote competition by eliminating a barrier to entry into the universal services market.*<sup>10</sup>

This policy had informed the Commission's subsequent redefinition decisions, including its decisions redefining the service areas of Citizens, Federated Telephone, Loretel, Melrose, Mid-State, Sprint and Twin Valley-Ulen.<sup>11</sup> It is instructive that none of these companies objected to ACC's ETC

---

<sup>10</sup> *In the Matter of an Investigation into the Merits of Disaggregating the Service Area of Frontier Communications of Minnesota, Inc.*, Docket No. P-405/CI-00-79, ORDER DETERMINING THAT FRONTIER'S SERVICE AREA SHOULD BE DISAGGREGATED (September 1, 2000) at 8-9 (emphasis added).

<sup>11</sup> See, for example, *In the Matter of the Petition of Midwest Wireless Communications, LLC, for Designation as an Eligible Telecommunications Carrier (ETC) Under 47 U.S.C. § 214(e)(2)*, Docket No. PT-6153/AM-02-686, ORDER GRANTING APPROVAL AND REQUIRING FURTHER FILING (March 19, 2003); *In the Matter of the Petition of WWC Holding Co., Inc. d/b/a CellularOne for Designation as an Eligible Telecommunications Carrier and Redefinition of Rural Telephone Company Service Area Requirement*, Docket No. P-5695/M-04-226, ORDER APPROVING PETITION FOR ETC DESIGNATION (August 19, 2004).

designation on the grounds that ACC sought to serve an inappropriate part of a company's service area.

The Commission's February 3 Order acknowledged that –

ACC sought immediate ETC designation for the entire study areas or redefined wire centers served by Qwest, Arrowhead, Arvig, Benton, Blackduck, Callaway, CenturyTel of Minnesota, CenturyTel of Northwest Wisconsin, *Citizens/Frontier*, Consolidated, Crosslake, Eagle Valley, East Otter Tail, Emily, *Federated Telephone*, Federated Utilities, Gardonville, Johnson, *Loretel*, Lowry, *Melrose*, *Mid-State*, *Midwest*, Northern, Osakis, Park Region, Peoples, Rothsay, Runestone, Starbuck, *Twin Valley - Ulen*, United, Upsala, Valley, West Central, Wilderness, and Wolverton.<sup>12</sup>

Having granted ACC's petition, the Commission confirms that it has designated ACC as an ETC serving the requested wire centers in each of these company's service areas, including the 72 in dispute.

In the interest of clarity, the Commission attaches to this Order a list of 72 wire centers which it affirms have been redefined as distinct service areas, and for which ACC had been designated an ETC.

### **ORDER**

1. The Commission hereby clarifies its Orders as follows:

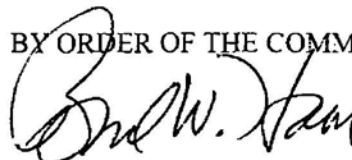
- The entire service areas of Citizens Telecommunications of Minnesota, Inc., Federated Telephone Cooperative, Loretel Systems, Inc., Melrose Telephone Co., Mid-State Telephone Co., Sprint-Minnesota, Inc., and Twin Valley-Ulen Telephone Co., Inc., have been redefined into their component wire centers.
- The Commission's February 3 Order in this docket designates ACC an ETC within the 72 wire centers served by these companies identified in the attached list.

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<sup>12</sup> ORDER GRANTING ELIGIBLE TELECOMMUNICATIONS CARRIER DESIGNATION AND REDEFINING SERVICE AREA REQUIREMENT at 4 (emphasis added).

2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

A handwritten signature in black ink, appearing to read "Burl W. Haar", written over the printed name.

Burl W. Haar  
Executive Secretary

(SEAL)

This document can be made available in alternative formats (i.e., large print or audio tape) by calling 651-201-2202 (voice) or 1-800-627-3529 (MN relay service)

Seventy-Two Wire Centers in which American Cellular Corporation is Designated  
an Eligible Telecommunication Carrier Pursuant to 47 U.S.C. § 214(e)

Wire Center Code	Wire Center Name	Rural Telephone Company's Name	SAC
ALBOMNXB	ALBORN	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
ASKVMNXA	ASKOV	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
AURRMNXA	AURORA	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
BBTMMNXB	BABBITT	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
BGFSMNXB	BIG FALLS	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
BKTNMNXB	BROOKSTON	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
BRRVMNXB	BEAR RIVER	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
BRSNMNXB	BRIMSON	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
CNLKMNXB	CRANE LAKE	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
CRWLMNXC	CROMWELL	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
DNHMMNXD	DENHAM	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
ELY MNXE	ELY	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
EMBRMNXE	EMBARRASS	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
ERBGMNXE	ERICSBURG	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
FLWDMNXF	FLOODWOOD	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
FNSNMNXF	FINLAYSON	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
GRNYMNXG	GREANEY	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
GRSNMNXG	GARRISON	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
GTWYMNXG	GATEWAY	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
HRMNMNXA	HERMAN	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
HYLKMNXH	HOYT LAKES	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
INFLMNXI	INTERNATIONAL FALLS	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
ISBLMNXI	ISABELLA	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
ISLEMNXI	ISLE	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
JCBSMNXJ	JACOBSON	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
KBTGMNXN	KABETOGAMA	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
KMBRMNXK	KIMBERLY	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
KTRVMNXK	KETTLE RIVER	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
LTFKMNXL	LITTLEFORK	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
MALMMNXM	MALMO	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
MCGRMNXM	MCGREGOR	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
MDLDMNXA	MEADOWLANDS	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
MGRTMNXM	MCGRATH	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
MILCMNXM	MILACA	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
NCSNMNXN	NICKERSON	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123

Wire Center Code	Wire Center Name	Rural Telephone Company's Name	SAC
ONAMMNXO	ONAMIA	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
PALOMNXP	PALO	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
PEASMNXP	PEASE	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
PLSDMNXP	PALISADE	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
RANRMNXR	RANIER	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
SGLKMNXS	STURGEON LAKE	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
TOWRMNXA	TOWER	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
TWHRMNXA	TWO HARBORS	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
WARBMNXA	WARBA	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
WHKNMNXW	WAHKON	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
WHTNMNXW	WHEATON	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
WRGHMNXW	WRIGHT	CITIZENS TELECOMM. OF MN, INC. -LAKES	361123
CHOKMNXC	CHOKIO	FEDERATED TEL. COOP.	361390
CRRLMNXA	CORRELL	FEDERATED TEL. COOP.	361390
DNVSMNXD	DANVERS	FEDERATED TEL. COOP.	361390
HLWYMNXA	HOLLOWAY	FEDERATED TEL. COOP.	361390
ODSSMNXO	ODESSA	FEDERATED TEL. COOP.	361390
ADBNMNXA	AUDUBON	LORETEL SYSTEMS, INC.	361443
CRMNMNXC	CORMORANT	LORETEL SYSTEMS, INC.	361443
FRAZMNXF	FRAZEE	LORETEL SYSTEMS, INC.	361443
LKPKMNXL	LAKE PARK	LORETEL SYSTEMS, INC.	361443
GRYEMNXG	GREY EAGLE	MELROSE TEL. CO.	361430
SEDNMNXS	SEDAN	MID STATE TEL. CO. DBA TDS TELECOM	361433
TRRCMNXT	TERRACE	MID STATE TEL. CO. DBA TDS TELECOM	361433
ALXNMNXA	ALEXANDRIA	SPRINT- MINNESOTA, INC.	361456
ALXNMNXL	ALEXANDRIA	SPRINT- MINNESOTA, INC.	361456
ATKNMNXA	AITKIN	SPRINT- MINNESOTA, INC.	361456
BNVLMNXB	BENNETTVILLE	SPRINT- MINNESOTA, INC.	361456
BOVLMNXB	BROWERVILLE	SPRINT- MINNESOTA, INC.	361456
CARLMNXC	CARLOS	SPRINT- MINNESOTA, INC.	361456
CRSBMNXC	CROSBY	SPRINT- MINNESOTA, INC.	361456
DRWDMNXD	DEERWOOD	SPRINT- MINNESOTA, INC.	361456
HMCYMNXH	HOLMES CITY	SPRINT- MINNESOTA, INC.	361456
LNPRMNXL	LONG PRAIRIE	SPRINT- MINNESOTA, INC.	361456
VLRDMNXV	VILLARD	SPRINT- MINNESOTA, INC.	361456
ULENMNXU	ULEN	TWIN VALLEY-ULEN TEL. CO. INC.	361491
WHERMNXW	WHITE EARTH	TWIN VALLEY-ULEN TEL. CO. INC.	361491

STATE OF MINNESOTA) )SS  
COUNTY OF RAMSEY )

AFFIDAVIT OF SERVICE

I, Margie DeLaHunt, being first duly sworn, deposes and says:

That on the 14th day of June, 2006 she served the attached

ORDER CLARIFYING PRIOR ORDERS.

MNPUC Docket Number: PT-6458/M-05-1122

XX By depositing in the United States Mail at the City of St. Paul, a true and correct copy thereof, properly enveloped with postage prepaid

XX By personal service

XX By inter-office mail

to all persons at the addresses indicated below or on the attached list:

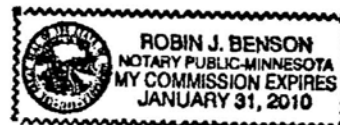
Commissioners  
Carol Casebolt  
Peter Brown  
Eric Witte  
Marcia Johnson  
Lillian Brion  
Mark Oberlander  
AG  
Mary Swoboda  
Jessie Schmoker  
Linda Chavez - DOC  
Julia Anderson - OAG  
Curt Nelson - OAG

Margie DeLakunt

Subscribed and sworn to before me,

a notary public, this 14 day of

June, 2006  
Notary Public



PT6458/M-05-1122, ListID# 1 American Cellular Corporation: In the Matter of American Cellular Corporation Designation as an Eligible

10:  
MN PUC

M. Cecilia Ray  
Moss & Barnett  
4800 Wells Fargo Center  
90 South Seventh Street  
Minneapolis MN 55402

Burl W. Haar (0+15)  
MN Public Utilities Commission  
Suite 350  
121 East Seventh Place  
St. Paul MN 55101-2147

Kevin Saville  
Citizens/Frontier Communications  
2378 Wilshire Blvd.  
Mound MN 55364

20:  
Dept. of Commerce

Linda Chavez (4)  
MN Department Of Commerce  
Suite 500  
85 7th Place East  
St. Paul MN 55101-2198

30:  
Inter-Office Mail

Julia Anderson  
MN Office Of The Attorney General  
1400 BRM Tower  
445 Minnesota Street  
St. Paul MN 55101-2131

Curt Nelson  
OAG-RUD  
900 BRM Tower  
445 Minnesota Street  
St. Paul MN 55101-2130

40:  
Regular Postal Mail

Mark J. Ayotte  
Briggs And Morgan  
2200 IDS Center  
80 South Eighth Street  
Minneapolis MN 55402

Thomas A. Coates  
American Cellular Corp.  
14201 Wireless Way  
Oklahoma City OK 73134-2512



**Exhibit E**

**Minnesota PUC's December 18, 2006 Order Granting Petition to Redefine Service Area  
Requirements to the Wire Center Level**

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye  
Marshall Johnson  
Ken Nickolai  
Thomas Pugh  
Phyllis A. Reha

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of American Cellular  
Corporation's Petition for Designation as an  
Eligible Telecommunications Carrier and  
Redefinition of Rural Telephone Company  
Service Area Requirement

ISSUE DATE: December 18, 2006

DOCKET NO. PT6458/M-05-1122

ORDER GRANTING PETITION TO  
REDEFINE SERVICE AREA  
REQUIREMENTS TO THE WIRE CENTER  
LEVEL

**PROCEDURAL HISTORY**

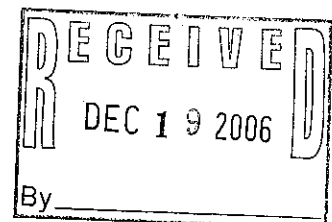
On February 3, 2006, the Commission issued its ORDER GRANTING ETC DESIGNATION AND REDEFINING SERVICE AREA REQUIREMENTS in this docket. In its Order, the Commission gave its approval for American Cellular Corporation (ACC) to assume the rights and duties of an Eligible Telecommunications Carrier (ETC) in various parts of Minnesota, including parts of the service area of some rural telephone companies. ETCs are eligible to receive subsidies from the federal Universal Service Fund to provide affordable telecommunications service to "low-income consumers and those in rural, insular, and high cost areas."<sup>1</sup>

On February 6, ACC filed a letter with the Federal Communications Commission (FCC) and the Universal Service Administrative Company (USAC) informing them of the Commission's decision and of ACC's eligibility to receive universal service funds. But USAC has declined to provide subsidies with respect to ACC's operations in 72 wire centers that no other competitive ETC has sought to serve.

On May 16, 2006, ACC asked the Commission to clarify its prior Orders with respect to the 72 wire centers in question.

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<sup>1</sup> 47 U.S.C. § 254(b)(3).



On June 14, 2006, the Commission issued its ORDER CLARIFYING PRIOR ORDERS (Clarifying Order). In its Clarifying Order, the Commission granted ACC's request and clarified that the February 3, 2006 Order allowed, among other things, the redefinition of certain wire centers where the incumbent companies' study areas will not be served in entirety by ACC, but where the incumbent companies' study areas have been redefined at the wire center level in an earlier ETC case, the Midwest Wireless case in Docket No. PT 6153/AM-02-686. The Commission concluded that the redefinitions resulted in each individual wire center being a separate service area for the purpose of granting universal service support for future competitive ETC designations.

Notwithstanding the Commission's June 14, 2006 Clarifying Order, USAC (the Universal Service Administrative Company, an entity designated by the Federal Communications Commission (FCC) to administer the federal universal service funding) has not disbursed federal support for the Citizens and Melrose wire centers listed in ACC's filing. USAC's position is that the Midwest Wireless Order redefined only those Citizens and Melrose wire centers where Midwest Wireless was designated as an ETC, not the other Citizens and Melrose wire centers where ACC sought ETC designation.

On October 10, 2006, ACC filed a petition asking the Commission to redefine the service area requirement in specific wire centers in the Citizens and Melrose study areas for purposes of facilitating its receipt of the federal universal service support. Attached to the ACC's petition as Exhibit B was a list of the specific wire centers in which ACC was asking the Commission to redefine the service area requirement. Exhibit B is attached to this Order marked Attachment 1.

No party filed comments on the Company's request.

The Commission met to consider this matter on November 30, 2006.

### **FINDINGS AND CONCLUSIONS**

In this petition and earlier petitions filed by ACC requesting ETC designation, no party has disputed the Company's ETC designation in the affected areas, including the redefinitions of the service areas at the exchange or wire center level. In addition, the Department of Commerce has supported ACC's redefinition issue from the beginning of the case.

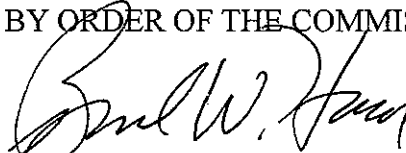
The record shows that the proposed redefinition does not create a risk of either intentional or unintentional cream skimming, will not affect Citizens or Melrose's status as rural telephone companies, and will not create any administrative burdens.

Consistent with the Commission's policy as stated in the Commission's June 14, 2006 Clarifying Order, the Commission will grant ACC's petition. The Commission does so with the objective of addressing USAC's concerns that hinder ACC's receipt of federal support for the Citizens and Melrose wire centers where ACC has been designated as an ETC.

**ORDER**

1. American Cellular Corporation's petition is granted.
2. The Commission hereby redefines the service area requirement for the entire Citizens and Melrose study areas to the wire center level and reaffirms ACC's designation as an eligible telecommunications carrier (ETC) as to those wire centers listed on Exhibit B to the Company's October 10, 2006 petition. See Attachment 1
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION



Burl W. Haar  
Executive Secretary

(SEAL)

This document can be made available in alternative formats (i.e., large print or audio tape) by calling 651-201-2202 (voice) or 1-800-627-3529 (MN relay service)

**EXHIBIT B****Rural Telephone Company Wire Centers in Which ACC Has Been Designated as an ETC  
and for which ACC Now Seeks Redefinition to the Wire Center Level for the Entire Study  
Area**

Rural Telephone Company	Wire Center Name	CLLI Code
Citizens Tel. Co. of Minnesota d/b/a Frontier Comm. of Minnesota  SAC 361123	Albom	ALBOMNXB
	Askov	ASKVMNXB
	Aurora	AURRMNXA
	Babbitt	BBTTMNXB
	Big Falls	BGFSMNXB
	Brookstone	BKTNMNXB
	Bear River	BRRVMNXB
	Brimson	BRSNMNXB
	Crane Lake	CNLKMNXB
	Cromwell	CRWLMNXC
	Denham	DNHMMNXD
	Ely	ELY MNXE
	Embarrass	EMBRMNXE
	Ericsburg	ERBGMNXE
	Floodwood	FLWDMNXF
	Finlayson	FNSNMNXF
	Greaney	GRNYMNXG
	Garrison	GRSNMNXG
	Gateway	GTWYMNXG
	Herman	HRMNMNXA
	Hoyt Lakes	HYLKMNXH
	International Falls	INFLMNXI
	Isabella Isle	ISBLMNXI
	Isle	ISLEMNXI
	Jacobson	JCBSMNXJ
	Kabetogama	KBTGMNXN
	Kimberly	KMBRMNXK
	Kettle River	KTRVMNXK
	Little Fork	LTFKMNXL
	Malmo	MALMMNXM
	McGregor	MCGRMNXM
	Meadowlands	MDLDMNXA
	McGrath	MGRTMNXM
	Milaca	MILCMNXM
	Nickerson	NCSNMNXN
	Onamia	ONAMMN XO
	Palo	PALOMNXP
	Pease	PEASMNXP
	Palisade	PLSDMNXP
	Ranier	RANRMNXR

Rural Telephone Company	Wire Center Name	CLLI Code
	Sturgeon Lake Tower Two Harbors Warba Wahkon Wheaton Wright	SGLKMNXS TOWRMNXA TWHRMNXA WARBMNXA WHKNMNXW WHTNMNXW WRGHMNXW
Melrose Telephone Company  SAC 361430	Grey Eagle	GRYEMNXG

**Exhibit F**

**November 30, 2006 Briefing Papers of the Minnesota Public Utilities Commission Staff**

**Minnesota Public Utilities Commission**  
*Staff Briefing Papers*

Meeting Date: **January 19, 2006**..... \*\*Agenda Item #\_\_

Company: **American Cellular Corporation**

Docket No. **Docket No. PT6458/M-05-1122**

In the Matter of American Cellular Corporation's Petition for Designation as  
 an Eligible Telecommunications Carrier (ETC) and Redefinition of Rural  
 Telephone Company Service Area Requirement

Issues:           A. Should the Commission approve ACC's ETC petition?  
                   B. Should the Commission approve ACC's petition for the redefinition of  
                   service areas?

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***Relevant Documents***

Staff Briefing Papers for the October 13, 2005 meeting . . . . .October 13, 2005 (#15)  
 ORDER REQUIRING SUPPLEMENTARY FILING . . . . .October 25, 2005 (#16)  
 ACC's Supplemental Filing .....November 7, 2005 (#17)  
 Comments  
     Citizens ..... December 2, 2005 (#21)  
     DOC ..... December 2, 2005 (#22)  
 Reply Comments  
     ACC ..... December 21, 2005 (#23)

The attached materials are workpapers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.

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### ***Statement of the Issues***

- A. Should the Commission approve ACC's petition for ETC designation?
- B. Should the Commission approve ACC's petition for the redefinition of service areas?

### ***Background***

On July 5, 2005, American Cellular Corporation (ACC) filed a petition for designation as an eligible telecommunications carrier (ETC) for the purpose of receiving support from the federal universal service fund. In conjunction with its ETC petition, ACC requested that the Commission redefine, at the wire center level, certain of the service areas of the rural incumbent local exchange carriers in areas in which ACC proposes to serve.

The Commission met on October 13, 2005 and decided not to apply to ACC's filing the new FCC conditions for ETC designation contained in the *FCC Report and Order in CC Docket 96-45, FCC 05-46*. Rather, the Commission concluded that ACC's ETC application should be reviewed in a manner consistent with the designation requirements used in previous ETC cases.

The Commission's Order dated October 25, 2005 found that the Company's filing was incomplete at that time and directed ACC "to make a supplemental filing with the Commission, containing information already given to the Department pursuant to a Department information request and any additional information the Company may deem relevant."

On November 7, 2005, ACC submitted a supplemental filing.

At the request of the Department of Commerce (Department or DOC), the Commission extended the deadline for comments and replies to December 5 and December 20, 2005, respectively.

On December 5, 2005, Citizens and the DOC filed comments. Citizens recommends denial, while the DOC recommends approval of ACC's ETC petition. ACC filed reply comments on December 21, 2005.

### ***ACC's Supplemental Filing***

In addition to information contained in its earlier filing, ACC's supplemental filing responded to the outstanding ETC requirements as discussed in the initial Staff Briefing Papers (*see pages 10-13 of the October 13, 2005 Briefing Papers*) as follows:

#### **Facilities**

ACC provided a list and description of its existing network facilities and signal coverage in each of the areas in which ETC designation is sought. *Supp. Petition at 1-3 and also Exhibit 1.*

### Commitment to Provide Service upon Reasonable Customer Request

ACC has committed to undertake various steps to provide service to customers within the designated service areas in the event they do not receive adequate signal coverage at their primary residence. *Supp. Petition at 3-5.*

ACC has also identified six new facility construction projects that are intended to expand network coverage in the areas of Crane Lake, Nett Lake, Babbitt, Silver Bay, Lutsen and Grand Marais. *Supp. Petition at 6-7, also Exhibits 5 and 6.*

### Description of Basic Universal Service (BUS) Offering

ACC's filing includes a description of a BUS offering, including unlimited local usage and expanded local calling areas. *Supp. Petition at 5.* The BUS offering is also described in the informational tariff (*see Exhibit 2*) and Customer Service Agreement (*see Exhibit 3*).

### Advertising Plan

ACC also filed an updated advertising plan describing the availability of its service offerings, including that of Lifeline and Link-Up for qualified consumers. *Supp. Petition at 6, also Exhibit 4.*

### Informational Tariff and Customer Service Agreement

The informational tariff (*Supp. Petition, Exhibit 2*) describes the supported services, features, pricing and local calling areas for the BUS. ACC also revised its Customer Service Agreement (*Supp. Petition, Exhibit 3*) to include customer service and consumer protection provisions.

### ***Parties' Comments***

#### Citizens

Citizens recommends Commission denial of ACC's ETC petition, unless ACC demonstrates compliance with all the Commission's criteria and standards for ETC designation. According to Citizens, ACC has failed to show that it will have the ability to provide service to all customers in the area in which it seeks designation. Citizens also claims that ACC's filing does not comply with the ETC designation criteria recently adopted by the Commission by not providing a two-year network improvement plan, a commitment for specific start and completion dates for the promised construction projects, and other ETC eligibility requirements by the FCC. *See Citizens Comments at 4-6.*

## DOC

The DOC recommends Commission approval of ACC's ETC petition. The Department suggests that the Commission find that ACC has made a credible showing, supported by facts and commitments, of its capability and intent to provide and advertise an affordable, quality offering, including the nine federally supported services throughout its proposed service area, and that its designation is in the public interest. *DOC at 5-11.*

The Department also recommends approval of ACC's petition for the redefinition of the service areas of Paul Bunyan and Red River at the wire center, and the submission of the redefinition petition to the FCC for concurrence. *DOC at 10.*

## ACC

ACC states that Citizens wrongly contends that ACC's petition must follow the new ETC designation standards adopted by the Commission in Docket No. P999/M-05-1169, *In the Matter of a Commission investigation to Consider Adopting the Federal Communication Commission's Standards for Designating Eligible Telecommunications Carriers*. According to ACC, the Commission had already determined that the new designation criteria established by the Commission in said docket will not be applied retroactively to ACC's petition.

ACC does not contest that the new annual ETC certification requirements will apply to ACC, and that upon ETC designation, the Company, as well as all other designated ETCs in Minnesota, will submit the annual requirements for certification beginning in June 2006.

ACC claims that, with its supplemental filing, it has now fully satisfied the requirements for ETC designation. *ACC Reply Comments at 4-7.* ACC asks that the Commission grant the requested ETC designation.

## *Staff Analysis*

### A. On ACC's Petition for ETC Designation

With the Supplemental Petition, ACC has shown that it meets the requirements initially discussed on pp. 10-14 of the Staff Briefing Papers for the October 13, 2005 Commission meeting, as follows:

#### Threshold eligibility requirements

- It is a common carrier;
- It provides each of the nine supported services;
- It will offer and advertise the availability of, and charges for the supported services throughout the service area; and
- Its designation is in the public interest.

Additional requirements from ETC applicants to demonstrate that they have the intent and capability to provide the supported services

- A list and description of the facilities used to provide services throughout the service area for which designation is sought;
- A description of how the applicant will fulfill its obligation to provide service upon a customer's reasonable request.
- A detailed description of at least one "basic" affordable universal service offering with all the supported services.
- A formal plan for advertising the offering and availability of Lifeline, LinkUp and the basic universal service offering throughout the proposed service area.
- A service quality plan, including commitments and/or disclosures regarding customer service, dispute resolution policies, network maintenance policies, procedures for resolving service interruptions, and any associated customer remedies, and billing, payment, deposit and disconnection policies and procedures.
- An informational tariff, or customer service agreement that shows the rates, service plans, cost of related equipment and installation charges, and all terms and conditions related to the universal service offering.

Staff agrees with ACC and the DOC that the Commission should approve ACC's ETC petition. Staff believes that the Company meets all the requirements previously required from other ETC applicants in the past.

If the Commission grants ACC's ETC petition, Staff also agrees that the Commission should certify to the FCC that ACC will use all federal high-cost support it will receive for the provision, maintenance, and upgrading of facilities and services for which the support is intended pursuant to 47 U.S.C. § 254(e). The Commission had submitted to the FCC its Annual Certification for the other ETCs before the October 1, 2005 deadline (*Docket No. P999/M-05-1185*). In past cases, the Commission supplemented the annual certification to the FCC with certification for newly-designated ETCs.

#### B. ACC's Redefinition Petition

Regarding the redefinition of service areas, ACC's initial filing requested for the redefinition of the service areas of Paul Bunyan Rural Telephone Cooperative and Red River Rural Telephone Association because its FCC license restricts its service coverage to some portions of those companies' service areas. ACC seeks conditional ETC designation in those areas pending approval of the redefinition of the service areas by both the Commission and the FCC. At the Commission's October 13, 2005 meeting, consideration of this issue was deferred until after receipt of ACC's supplemental filing.

Staff agrees with the DOC and ACC that the proposed redefinition on individual wire centers of Paul Bunyan and Red River is consistent with the Commission's previous decisions in similar cases as well as with the FCC's recent rulings on the subject. Thus, Staff also recommends approval of the Company's redefinition proposal.

### ***Commission Options***

#### **A. On ACC's Petition for ETC Designation**

- A.1. Find that ACC meets the Commission's ETC requirements and approve ACC's petition for ETC designation. Also, certify to the FCC that ACC will use all federal high-cost support it will receive for the provision, maintenance, and upgrading of facilities and services for which the support is intended pursuant to 47 U.S.C. § 254(e).
- A.2. Deny ACC's petition for ETC designation.

#### **B. On ACC's Petition for Service Area Redefinition**

- B.1. Find that ACC's redefinition petition meets the Commission's requirements and approve ACC's petition to redefine the service areas of Paul Bunyan Rural Telephone Cooperative and Red River Rural Telephone Association at the wire center level. Also, petition the FCC for concurrence.
- B.2. Deny ACC's petition to redefine the service areas.

### ***Staff Recommendations***

Staff recommends Options A.1 and B.1.